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**LSE Public Policy Group and Enterprise LSE**

**A Review of the Generic Names  
Supporting Organization (GNSO)**

**Volume 2**

**Part of the Internet Corporation for Assigned Names  
and Numbers ([www.icann.org](http://www.icann.org))**

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**Strictly confidential**

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## “RFP for GNSO Review”

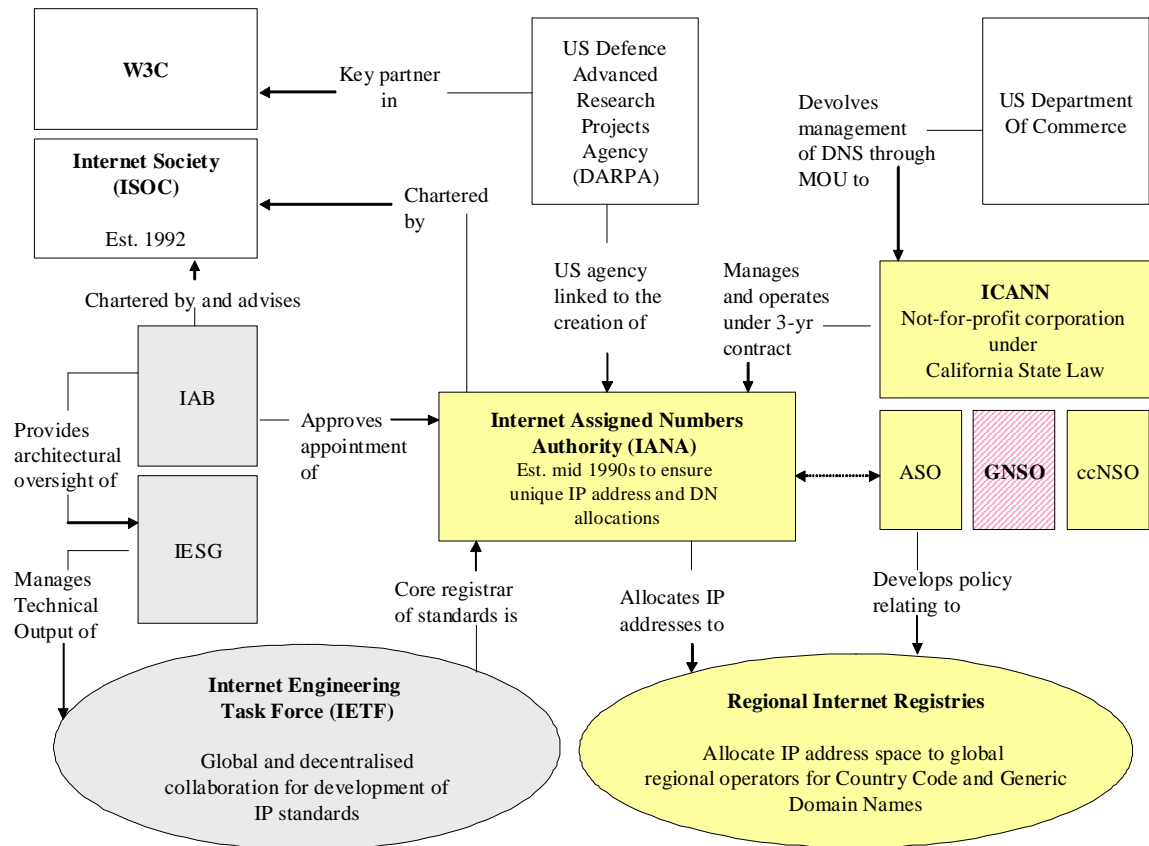
If the headline above has any meaning for you, you're probably not independent enough to bid for this RFP. For those of you who don't know why a GNSO Review is pending, what the GNSO actually is, or how the work product of this review will be used, *and you're interested enough in ICANN to be reading this web log*, you're the perfect person to submit a bid. Seriously.

## 1. Introduction

1.1 The Internet Corporation for Assigned Names and Numbers (ICANN) was established in September 1998 as a non-for-profit corporation under California State law. Its primary role is to manage all technical and policy functions relating to the Internet domain name system (DNS). As the number of networks on the Internet grew during the 1990s, so to did the need for a reliable process for managing the allocation of Internet Protocol (IP) addresses and mapping these addresses to the corresponding hierarchies of domain names. It was also important to ensure a centralized and accessible record for the many IP standards and parameters, which frame and enable coherent information flow across the Internet. In 1995, the late Jon Postel, Internet networking pioneer, set up the Internet Assigned Numbers Authority (IANA) in order to bring institutional structure to the stewardship of the DNS. Postel directed the IANA function during this rapid growth period until his unexpected death in October 1998 – a month after the establishment of ICANN. Described by Ira Magaziner, Internet policy advisor to the White House at the time, as ‘the guy they trust’, Postel had been the integral force in the stable and successful growth of the DNS through the 1990s. ICANN became in many ways the institutional embodiment of his legacy.

1.2 ICANN took over responsibility for the DNS through a Memorandum of Understanding (MOU) with the US Department of Commerce. Through a rolling three-year contract contained in the MOU, it operates and manages the IANA function. Figure 1 below gives a very basic overview of the organizational relationship between the technical Internet standards community and ICANN, showing how the IANA constitutes a vital link between the domain naming and

**Figure 1: Overview of key organizations for technical and policy development for domain name system (DNS)**



NOTE: This diagram is designed to show the link between ICANN, the IANA, and the Internet technical standards development community. It is not an exhaustive mapping of Internet Governance organizations. We include the US Defence Advanced Research Projects Agency (DARPA) because of its development work for the first Internet-style systems in the late 1960s and its work in relation to the IANA. We include the W3C Consortium as it is a leading technical standards development body.

technical standards communities. The main stakeholders in the technical community include the Internet Society, the Internet Architecture Board, and the Internet Engineering Task Force (IETF). Through the IANA, the technical responsibilities of ICANN fall into two main strands of work as follows:

- [a] As the ‘core registrar’, ICANN is responsible for recording the IP standards and parameters developed by the technical community through the IETF and associated governance structures;
- [b] ICANN allocates and assigns Internet address space to five global Regional Internet Registries. These Registries in turn allocate Internet space to



network operators in different regions of the world. ICANN delegates operational responsibility for Top Level Domains through these structures down to country and local level. This function covers allocation of Internet space for country code Top Level Domains (such as dot.uk or dot.de) and generic Top Level Domains (such as dot.com or dot.org).

1.3 The other major aspect of ICANN's role is to develop policy for the operation of the DNS and IP address allocation. Figure 1 above shows the three Supporting Organizations within ICANN with policy development responsibilities. The Address Supporting Organization (ASO) works with the Regional Internet Registries and the IANA to develop policy recommendations for the ICANN Board covering issues relating to IP address allocation. The country code Name Supporting Organization (ccNSO) develops country code policies in cooperation with country Top Level Domain managers from national registries. The third Supporting Organization is the Generic Names Supporting Organization (GNSO), responsible for developing and recommending to the ICANN Board substantive policies relating to generic top-level domains (shaded pink in Figure 1).

1.4 The GNSO is designed to ensure bottom-up and consensus-based policy development on gTLD issues. The structure consists of two constituent parts as shown in Figure 2.

[a] Six Constituencies represent different groups of stakeholders with interest in gTLD policy development. Constituencies represent the interests of their members to the GNSO Council. Two Constituencies represent the domain name registration industry:

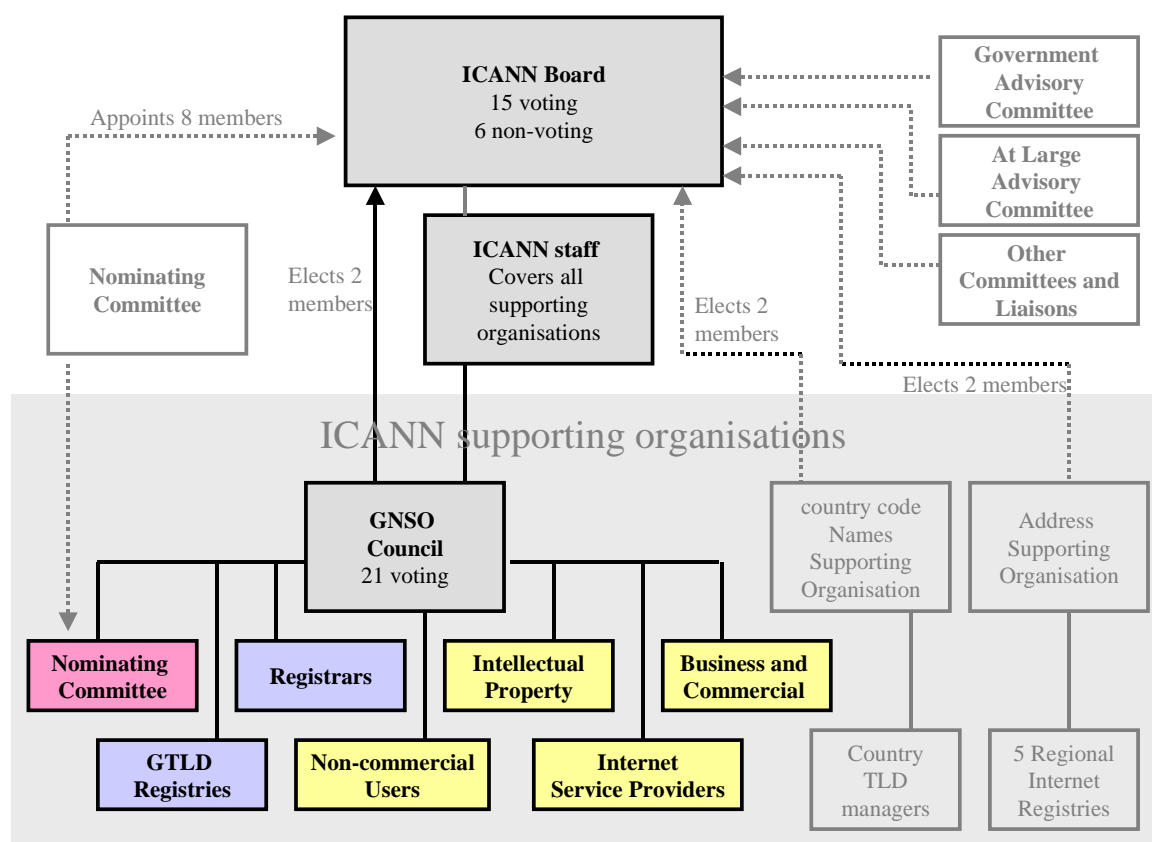
- *GTLD Registries* (representing all GTLD Registries under contract to ICANN);
- *Registrars* (representing all registrars accredited by and under contract to ICANN).

Four Constituencies represent the interests of various groupings of Internet users and domain name holders as follows:

- *Commercial and Business Users* (representing both large and small commercial entity users of the Internet);

- *Non-commercial Users* (representing the full range of non-commercial entity users of the Internet);
- *Intellectual Property Interests* (representing the full range of trademark and other intellectual property interests relating to the DNS);
- *Internet Service and Connectivity Providers* (representing all entities providing Internet service and connectivity users of the Internet).

**Figure 2: Overview of the ICANN structure with emphasis on the GNSO and its Constituencies**



NOTE: We have intentionally accentuated the GNSO in the chart. We are not able to portray detailed organizational structures of other parts of the ICANN structure.

[b] The GNSO Council develops consensus policies based on the input from Constituencies and other sources. It consists of 21 voting members; three representatives from each of the Constituencies outlined above plus three members selected by the ICANN Nominating Committee. The Council has

built into its Bylaws that Constituency representative must come from different geographical regions. There are two non-voting liaisons to the Council, one appointed by the At Large Advisory Committee (ALAC) and the other by the Government Advisory Committee (GAC). The Council is responsible for managing the policy process of the GNSO as a whole. The Council elects two members of the ICANN Board (Seats 13 and 14) by simple majority voting on nominated candidates put forward by Council members. The Chair of the Council is also elected by a majority vote of its members, for no longer than a term of one year, however the Chair may be re-elected after the year term is complete. All Council members fulfil their roles and responsibilities voluntarily and, apart from Nominating Committee members, do not receive funding from ICANN.

***Quote Box 1: On the structure of the GNSO***

*‘The GNSO policy aim for ICANN is to funnel competing interests into a manageable format, create consensus, and pass that wisdom up to the Board’*

*‘The [GNSO] was designed as a bottom-up, consensus and grassroots process...that was what bound us together’*

*‘Mirroring the market in Constituencies is something conceived to prevent capture’*

*‘A well structured GNSO could serve a purpose...it cannot serve a purpose now’*

## **2. Terms of reference**

2.1 Since December 2002 ICANN Bylaws have stated that its Supporting Organizations should be subject to periodic and independent review if feasible no less frequently than every three years. The GNSO Council was subject to independent review in 2004 however this work did not include the GNSO Constituency structure. The ICANN Board agreed in July 2005 that the first full review of the GNSO should be commissioned, and in February 2006 chose after competitive tender a research team from the London School of Economics and Political Science to carry out the work. Our research has been conducted in a short period of time, during three and a half months leading up to ICANN’s June 2006 meeting in Marrakech, Morocco.

2.2 The Review addresses two core questions set out explicitly in the ICANN Bylaws (Article IV, Section 4). These questions are:

- Whether the supporting organization [in this case the GNSO] has a continuing purpose in the ICANN structure; *and*
- *If so*, whether any change in structure and operations is desirable to improve its effectiveness.

The first question invites a radical approach to thinking about the role of the GNSO, its policy development, and how other structures and ways of working might improve the quality of policy outputs. We have received a wide range of views about the current and future purpose of the GNSO, from incremental ‘tinkering’ change to full-blown dismantling, and we have attempted to convey the full range of opinion in our report. The second question is more concerned with thinking constructively about ways in which the GNSO process is failing or faltering, and ways in which it could be usefully reengineered to reflect the core values at stake, and shifting trends and issues in technology, civil society, and commercial markets. In some ways, therefore, the first of these two questions is set to default ‘yes’, as the option for starting the second question ‘if no,’ forces the respondent to consider a future without a GNSO. For those who had little or no awareness of the GNSO from the start, a future without the GNSO is much the same as a future with it. For those individuals who have invested hundreds of hours of their own time (or their organization’s time) into policy development work over the last 6 or so years, this approach may be different. *Our* approach from the outset has been to try to retain an open mind around these core questions, collect as many views from as wide a range of stakeholders as possible, and then put forward some practicable options for change that would address both questions.

2.3 The Terms of Reference for this study can be traced back to initial discussions in July 2005, the ‘Luxembourg Resolution’ (it is common for ICANN policy documents and decisions to be known exclusively by location or date). They have been developed between the Board, ICANN staff, and the GNSO Council. The ‘Vancouver Resolution’ in December 2005 subsequently approved the Terms of Reference. There are four areas:

*[a] Representation through the Constituency system.* This aspect deals with the extent to which the GNSO as a whole and its six current Constituencies reflect and represent adequately global interests and views in the area of gTLDs. At an individual Constituency level, the key questions are whether Constituencies are doing a good job representing their members' interests, whether their membership base could be broadened or deepened (or modified in some other way). At the level of the whole Constituency system, the key question is whether this system is functioning effectively or whether changes could be made to make the system more inclusive, or to adjust to new policy issues. At the level of the GNSO as a whole, we also address the question of how systems of representation from the Constituencies, to the Council, to the Board are working coherently together.

*[b] Transparency and openness across the GNSO.* This aspect deals with the extent to which policy development at Constituency level, and interests expressed during policy development by elected members, are open for scrutiny. It has been one of the enduring findings of this research that there is close relationship between the views people give you and their particular set of interests and affiliations within the ICANN community. Advocates of a particular position will invariably (although not always) hold relatively fixed views about opposing positions. And we have found that it is frequently (although again not always) possible to predict in advance broad lines of argument used by interviewees with only limited knowledge of their affiliations from the outset. We examine the process and communication that help to ensure openness, visibility, and organizational vitality.

*[c] How effective is the GNSO at developing policy positions?* This aspect of the research examines the extent to which the policy development function operates effectively, embodied in particular the Policy Development Process (PDP). It examines the working arrangements of the GNSO and its Council in terms of how effectively constituency statements are put together and submitted, and how policy development work is carried out within the Council on Councillors' time. We look also at the scope of policy work of the Council, and whether it gets involved in policy issues that are not within scope. We

examine the extent to which there is coherence and positive cooperation between staff and the Council. Also we examine to what extent the GNSO is able to incorporate external expertise and diversity of views from organizations from business, technical, and non-commercial sectors. Finally, we examine the quality of consensus positions generated by the GNSO and passed to the Board, and the extent to which voting systems and other mechanisms can impact on voting behaviour and policy output.

*[d] Implementation and compliance.* The fourth key area addresses issues around implementation of gTLD policies, compliance with policies particularly by registration organizations, relationships between policy development and ICANN contract compliance and enforcement, and perceptions around whether the GNSO and its Constituencies play by a set of rules which are clear and understood. The study is not a review of quality of compliance across registration organizations, and we do not attempt to draw conclusions about substantive levels of compliance in the industry. We do however focus on the working relationships relevant to the GNSO that underpin compliance work, views on implementation and measurement of GNSO policies adopted by the Board, and general views and perceptions on who is playing by the rules and who is not.

### 3. Context of the Review

3.1 We review briefly below some key event and decision milestones in the development of ICANN, and how these relate broadly to the GNSO. Wider issues relating to ICANN are of course strictly out of the scope of this Review, and we have tried to make that clear to all our interviewees. Nevertheless, as one former senior ICANN staff member suggested to us as he wished us luck with the study, ‘it is both a low level and high level challenge’. Questions about the role and legitimacy of the GNSO appear to be necessarily wrapped in wider questions about the legitimacy of ICANN as a whole. A good proportion of ICANN Board time is spent interpreting and acting upon policy recommendations that have emanated from the GNSO. As a corollary to this, questions about the legitimacy of ICANN necessarily colour any thinking about questions on legitimacy and operation of the GNSO. Figure 3 sets out

some of these milestones with organizational changes depicted in blue and decisions or resolutions in red.

**Figure 3: A summary of key organizational changes and policy decisions relating to Generic Top Level Domains (organization change is indicated in blue, decisions in red)**

	ICANN events and decisions	GNSO events and decisions
1998	<b>Jun</b> US Government White Paper <b>Sept</b> ICANN established under CA state law <b>Oct</b> UDRP policy approved by ICANN	
1999	<b>Nov</b> First ICANN bylaws <b>May</b> Early formation of the GAC	<b>Nov</b> DNSO established
2000	<b>Jan</b> Separation of registry / registrar functions <b>Jul</b> Board agree to new generic TLDs <b>Oct</b> At Large online elections to the Board	
2001	<b>Nov</b> 7 new Top Level Domains selected	<b>Feb</b> DNSO Names Council approves accuracy and bulk access PDP Task Force
2002	<b>Sept</b> IDN Committee established <b>Mar</b> Evolution and Reform (EVR) committee <b>Oct</b> ALAC and At Large structure agreed <b>Dec</b> New bylaws from EVR Process	<b>Dec</b> GNSO established
2003	<b>Jan</b> Nominating Committee established <b>Jun</b> ccNSO established in ICANN bylaws <b>Oct</b> 'Sitefinder' incident	<b>Mar</b> WHOIS 'data reminder', 'marketing restriction' and 'restored names accuracy' policies adopted by Board <b>Apr</b> Inter-registrar transfer policy adopted by Board
2004	<b>Dec</b> WSIS 1 <sup>st</sup> phase Geneva <b>Mar</b> New sTLD applications received <b>Jul</b> GAC revises its operating principles	<b>Oct</b> Expired domain deletion policy adopted by Board
2005	<b>Nov</b> President's advisory committee on IDNs	
2006	<b>Nov</b> WSIS 2 <sup>nd</sup> phase Tunis <b>Jan</b> Revised dot.com settlement <b>May</b> dot.xxx application rejected	<b>Jun</b> New PDP task force on purpose of WHOIS <b>Dec</b> Final report on 'new registry services' PDP New PDP on allocation of new generic TLDs <b>Feb</b> New PDP on contractual conditions for registry services

**NOTES and ABBREVIATIONS:** The table above is obviously not an exhaustive list of key dates and events. We have tried to outline some important ones, which give an overview of development both in organizational and decision-making terms. Abbreviations used are as follows: CA – California; GAC – Government Advisory Committee; TLD – Top Level Domain; IDN – Internationalised Domain Name; ALAC – At Large Advisory Committee; EVR – Evolution and Reform Process; ccNSO – Country Code Names Supporting Organization; sTLD – Sponsored Top Level Domain; PDP – Policy Development Process; DNSO – Domain Name Supporting Organization; UDRP – Uniform Domain Name Dispute Resolution Policy; WHOIS – the name of the database holding contact details of domain name holders; WSIS – World Summit on the Information Society (UN and ITU conference)

3.2 It is worthwhile rewinding slightly to sketch out some of main stakeholders involved in the creation of ICANN in the second half of the 1990s. A helpful point for departure is the decision in April 1995 by the National Science Foundation to decommission its backbone network NSFNET with a view to shifting the future development of the Internet into the private sector. NSFNET network had originally gone online in 1986, and by the beginning of the 1990s had become the first national

high-speed Internet network. In 1995 further privatization took place with the award of contracts for three network access points between commercial networks (in 1993 NSF had awarded a 5-year agreement for registration of non-military domain names to Network Solutions Inc.). Some of our more experienced interviewees suggested that the institutional structures that had framed the development of networking technology to this point had involved complicated chains of collaborations and informal but effective working relationships. The decision therefore to privatize the backbone of the Internet at a time of rapid growth led to a period of uncertainty and consequent manoeuvring of interests. One interviewee involved at the time told us ‘the authority chain was complicated...too complicated to be thrown out on to the sidewalk’.

3.3 The period between 1995 and 1998 framed the process of finding some organizational response to the effective withdrawal of the NSF and the looming growth of the Internet. Major computing and telecommunications corporations such as AT&T, MCI, IBM, and Microsoft were all pinning their futures to Internet and networking markets. The prospect of fragmentation of the Internet or a struggle between competing commercial interests to run it, was too dangerous to contemplate. As more and more commercial traffic flowed across the Internet, major corporations prioritized the future stability of critical infrastructure. The entertainment content business, organizations such as Disney and the Motion Picture Association saw great importance in keeping the Internet intact, for reasons of being more easily able to control the use (and abuse) of content. Along with the educational and research community, other service providers such as the Commercial Internet Exchanges, and the US Administration, diverse groups developed strong interest in some kind of coordinating authority to ensure that the Internet did not break up on them.

3.4 By the mid 1990s major intellectual property associations such as INTA were focusing on putting in place safeguards to ensure that the growth of the Internet would not pose a threat to trademark and copyright interests. On copyright issues, the priority was to establish some kind of universal and coordinated mechanism to disable any web presence that might infringe on the interests of organizations’ intellectual property. Similarly, on trademark issues, there was a need for a policy and a course of action for dealing with misuse of domain names, such as spurious registration of



domain names invoking or simply reproducing established trademarks. Towards the end of the decade, momentum along these lines increased, and it is here that the World Intellectual Property Organization (WIPO) took on the role of the central coordinating body for developing and finalising policy on the Uniform Domain Name Dispute Resolution (UDRP).

3.5 The UDRP provided a standardised and independent adjudication mechanism for owners of registered trademarks to challenge any new registration that impinged upon this intellectual property. This policy largely predated the formation of ICANN, however many of our interviewees either wholeheartedly or begrudgingly acknowledged that it has been and still is a good example of a successful policy development. Others have characterised the process as a move by the large intellectual property lobby to develop a watertight means of protecting big business. One interviewee put it, ‘UDRP is inconsistent with every trademark law in the world’. As Figure 3 shows, the approval of the UDRP was one of the earliest actions of the ICANN Board.

3.6 The registration industry, characterised today in the generic space by Registries and Registrars, was largely unformed during the late 1990s. Indeed Network Solutions, Inc. (NSI) had retained and held a largely ‘unproblematic monopoly position’ since 1993 according to most of our more experienced commentators. In September 1995 the NSF authorised NSI to begin charging US\$100 for registrations of second level domains under dot.com, dot.net, and dot.org. By 1998 this price had decreased to US\$35 per registration largely through amendments to so-called ‘intellectual infrastructure’ contributions, and remained so until the formation of ICANN. Network Solutions was also affected by the convergence and organization of intellectual property interests during the mid to latter years of the 1990s, and adjusted its policies accordingly, for example by reserving ‘the right to withdraw a domain name upon receipt of an order from a US court claiming such an infringement’. By the late 1990s however there was a general dissatisfaction across the registration community with the absence of competition in domain name registration.

3.7 So, in these broad groupings of interest,

- US-based computing industry;

- major entertainment and content providers;
- organised intellectual property interests;
- early registration stakeholders;
- educational and research establishments;
- US Government administration;

one has the vital ingredients for not only the dynamic forces behind the formation of ICANN. Large commercial organizations, particularly the computing industry and content providers, could ensure that the DNS would remain stable and secure.

Intellectual property interests had established a set of institutions and mechanisms that would ensure the sanctity and integrity of established trademarks and copyrights.

Since the early 1990s the US Congress had been supporting research into networking technologies (with various Acts sponsored by Al Gore), and when the e-commerce agenda picked up pace in the second half of the decade, the Clinton Administration and senior advisors such as Ira Magaziner were integral to the work of creating an organization which would bring technical and operational stability, and root the administration of the DNS somewhere close to, but not within, the Federal government. As one commentator put it ‘the Democrats felt that they would get mud on their face from Republicans if they screwed up the Internet’

### 3.8 In June 1998 the US National Telecommunications and Information

Administration issued a White Paper setting out a detailed plan for managing Internet names and addresses (see Figure 3). In particular it discussed plans to ‘privatise the management of Internet names and addresses in a manner that allows for the development of robust competition and facilitates global participation in Internet management’. It drew together the wide array of interests held by these stakeholders above. The International Forum for the White Paper (IFWP), the process convened to develop the White Paper, culminated in mid September 1998 with a draft proposal published by the IANA and NSI for the creation of ICANN. This was amended via working groups, and finalised at the end of September 1998. The first ICANN Bylaws were agreed with NTIA in November 1998. One interviewee who had been intensively involved in this process told us that ‘it was complicated...an issue unlike anything else I had ever dealt with’. Another suggested that ‘it was a marvellously exciting time...all about factions and how factions could get hold of power’.

***Quote Box 2: On the emergence of the DNSO***

*‘There was mad fighting about what should be the terms...real vitriol’*

*‘The Board said to the Chair of the DNSO...please resolve this by 6pm’*

*‘When you look at the way the DNSO was created, does it surprise you that it did not work out perfectly?’*

3.9 The Domain Name Supporting Organization (DNSO) was set up in November 1998 as the body responsible for recommending policies on the DNS to the ICANN Board. It is no coincidence that stakeholders involved in creating ICANN had a large influence on how the original Domain Name Supporting Organization was structured. The reference to Constituencies being ‘self-organised’ in the Bylaws reflects a number of descriptions that we have had from more experienced interviewees who were involved in the formation of the Constituency system in the early days of the DNSO. One interviewee involved in setting up the original Constituency system suggested to us that:

There was a six-month deadline to form the supporting organizations [...] The 50 people or so who showed up in Singapore in 1999 [...] were put in a big room together and told to self-organize [...] what fell out of that was the six Constituencies we have today.

Some people also present suggested that this call to self-organise meant that the loudest and most aggressive voices tended to dominate proceedings and have a determining influence over the organizational structures that surfaced. One interviewee present at the formation of DNSO Constituencies suggested that these key groups were essentially asked by ICANN management to self-organise and ‘come back when they had sorted themselves out’. Further discussion with other interviewees confirms this perspective, to the extent that the outcome of this exercise in self-organization was largely determined by a rule of thumb that ‘whoever could shout the loudest got a constituency’. One commentator characterised the situation by saying that ‘if an Eskimo community had been agitating loudly enough...we probably would have given them seats’.

3.10 Some organizations such as the Council for European Top-Level Domain Registries (CENTR) at the time supported plans to establish more than the seven Constituencies (six listed above plus the original country code Constituency). Other interviewees with experience of this process have suggested that a much more diverse and fluid arrangement for interest groups could have been set up. As one pointed out,

At an early meeting in Paris, a cross section of the ICANN participants suggested that any subsidiary structures within the DNSO should be established as fluid alliances [...] that anyone be allowed to join (or leave) any given constituency just as they join or leave a political party [...] Shortly after the Singapore meeting, ICANN rejected this advice and imposed an artificially compartmentalized structure’.

3.11 The former Names Council displayed characteristic features of the current GNSO Council, in that elected members represented seven Constituencies, and had responsibility for developing consensus policy from the bottom upwards for all domain names issues. The seventh Constituency therefore was made up of elected members representing the interests of country code TLDs. It is perhaps strange in retrospect to view the vast diversity of national interests wrapped up in country codes as merely one Constituency with equal standing across six other Constituencies representing the interest of business, intellectual property and so on. As one interviewee put it, the DNSO at the time tended to reflect a ‘peculiar US computing industry perspective’ on the world, and the country codes were seen largely as a ‘sub topic under the Names Council...and far from mainstream work’.

3.12 In January 2000 ICANN introduced the separation of the ‘wholesale’ registry function from the ‘retail’ registrar function, effectively splitting the registration activity in half and creating a market for registrars. Registrars were required to pay the gTLD Registry US\$6 for each annual increment of an initial domain name registration and a further US\$6 for each re-registration. Registrars were free to offer registration services to Internet Services Providers and direct to Internet users, and to set their price accordingly. This structural separation has given rise to an intensive and lucrative market for registrars, and as a result, casts ICANN in the de facto role of market regulator (even if not de jure). In March 2000 Verisign entered the picture by purchasing NSI for US\$21 billion, and functioned as a combined registry and registrar (Verisign later sold its registrar business Network Solutions for US\$100 million.)

3.13 One interesting attempt to find a way to involve individual Internet users worldwide in the ICANN process were the elections of so-called ‘At Large’ members to the ICANN Board in late 2000. This ‘global political experiment’ allowed Internet users worldwide to register online and elect 5 (previously nine) Board Directors each for 2-year terms to represent the interests of Internet using population at large. The election was organised across five global regions, Asia-Pacific, Europe, North America, Latin America, and Africa. It is relatively widely accepted that these elections had serious flaws and were open to manipulation by national governmental interests. World citizens could vote as long as they had an email and a verifiable home address. It was found that some countries, notably Japan, succeeded in ‘stacking the vote’ effectively enough to get their own members elected. In our discussions with individuals who were around at the time, including representatives who stood as candidates in those elections, we found varying views on this period in ICANN’s institutional development. Some suggested that this was a period of real anticipation and excitement about what might be possible in terms of designing new global democratic structures of decision making. Many expressed more pessimistic views.

***Quote Box 3: On the Elections for At Large members of the Board***

*‘The online elections were a complete farce’*

*‘It was open to all sorts of problems...and it was frankly insane’*

*‘They were all dilettantes...they made all sorts of mistakes...the biggest one was assuming that users would want to play a part’*

*‘There were issues about funding and the electorate...but these could have been solved’*

3.14 This online experiment was abandoned, as well as At Large elections to the Board. Nevertheless, total votes cast for these elections were around 35,000 out of a potential membership population of 77,000. Manipulated or not, naïve and idealistic or not, there are signs here at least of organised participation outside of the context of the US. As one interviewee suggested, ‘despite the manipulation...the Japanese member of the Board actually turned out to be an outstanding representative’.

3.15 An important phase in the development of ICANN runs from late 2001 through to the late 2003, and is characterised by the Evolution and Reform Process and large-scale organizational upheaval. This process saw the beginnings of the ICANN structure as it currently exists, as summarised above in Figure 2. In December 2002 the Generic Names Supporting Organization (GNSO) was formed through the splitting of the DNSO into separate country code and generic top-level domain supporting organizations. As suggested above, the majority of our interviewees considered this separation generally a sensible move, in that it cleared space for more focused policy work in each area and reflected an institutional shift away from the ‘chronically US-centric perspectives’ that had been central to forming ICANN originally. One interviewee suggested that this was an ‘important sign of growing organizational maturity’. We have had a range of views on the extent to which country code and generic domain name policies have much in common. Some people have said that separating the two was a mistake, particularly as there are major issues ahead which will require close interaction between generic and country code stakeholders (such as Internationalized Domain Names). Probably the consensus however is that country codes involve different issues, structures, and range of stakeholders, and that the ‘separation and development’ strategy has been beneficial.

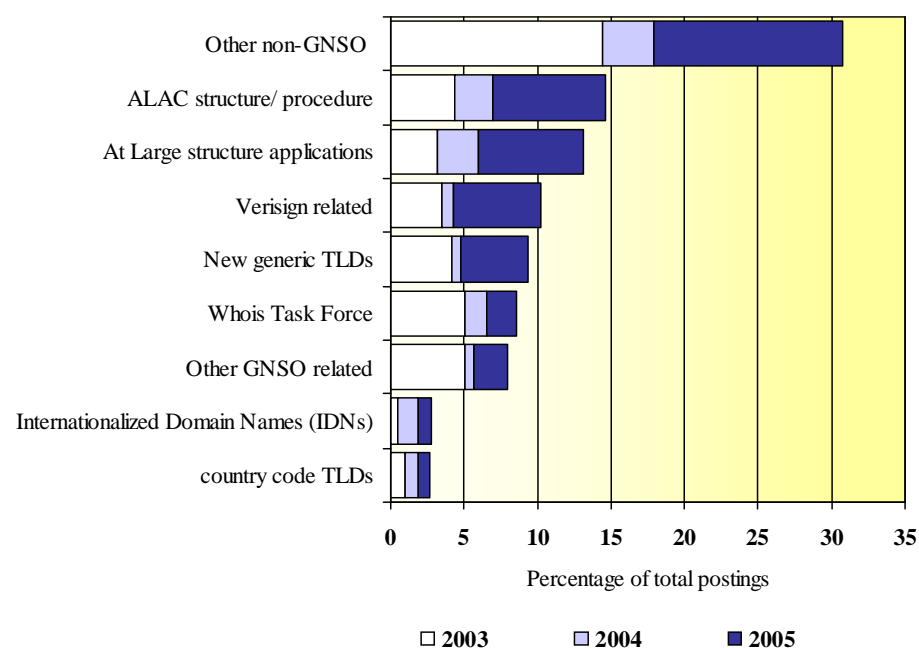
3.16 This period also involved rethinking around the structures in place to encourage consensus on matters of policy. Policy development work to date had not been formalized in any kind of written process, particularly incorporation of Constituency views. The written response to the 2005 proposed settlement with Verisign by the gLTD Registry Constituency summarizes this as follows:

By 2002, it was widely (but not universally) conceded that the standard for measuring consensus laid out in the Registry Agreements and the Registrar Accreditation Agreements was unworkable. The standard by which consensus was measured – the absence of substantial opposition – was a barrier to policy development. Accordingly, as part of the evolution and reform process, ICANN amended its bylaws to include the GNSO Policy Development Process.

3.17 This period of organizational change gave rise to agreement on new At Large structures in October 2002, revisiting earlier attempts to providing channels for

representation for individuals and global civil society. This took the form of the At Large Advisory Committee (ALAC – see Figure 4) and its Regional Advisory Liaison Organizations (RALOs). As Figure 4 below suggests, the ALAC has spent much of its time since 2002 setting up new global representative structures, and providing a forum for individuals and their representative associations to discuss issues relating to domain name policies and decision-making. In recent years it has also received funds from ICANN to grow these outreach structures. The Nominating Committee (known as the Nom Com) was also established during this period in January 2003, and currently appoints three voting members of the GNSO Council, an innovation largely designed to imbue the Council with some independent and levelling influence that could be swayed by the arguments of different blocs depending on the issues at stake. One Nominating Committee Council member described their role as that of ‘a judge balancing arguments’.

**Figure 4: Main themes discussed on the At Large Advisory Committee mailing list, by year**



NOTE: The At Large Advisory Committee (ALAC) is not in the scope of this Review, however GNSO related issues are widely discussed and the ALAC has a designated liaison to the GNSO Council.

3.18 The period since the beginning of 2004 has been characterised by increasing realignment with international interests on global Internet governance issues, management of legacy generic space issues largely connected to dot.com and dot.net

contracts with Verisign, questions about the role of ICANN and its relationship with the US government, and the increasing prominence of some complicated technical and policy issues, most notably Internationalised Domain Names (IDN).

3.19 The first phase of the UN World Summit on the Internet Society began with a conference in Geneva in December 2003. A good mix of interviewees have suggested that the initiation of the WSIS process, and the subsequent establishment of the UN Working Group on Internet Governance (WGIG) has led ICANN to renew its emphasis on international cooperation on Internet governance issues. This was illustrated by the agreement in July 2004 that the Government Advisory Committee within ICANN should amend its operating principles and processes to strengthen its interaction with the ICANN Board and constituent parts of the ICANN organization, including the GNSO. The second phase of the WSIS began in November 2005 with a conference in Tunis. This marked an agreement between ICANN and other international stakeholders to retain the

**Figure 5: Global usage and growth in usage of the Internet, by region (2000 to 2005)**

	Number of countries included	Percentage of world population 2005	Percentage of world Internet users 2005 (%)	Average growth multiple in Internet usage 2000-05
Sub-Saharan Africa	48	11	1	<b>19 times</b>
Middle East	29	7	3	<b>13 times</b>
<b>TOTAL</b>	<b>208</b>	<b>6.4 billion</b>	<b>1 billion</b>	<b>10 times</b>
South East Asia	25	56	34	<b>8 times</b>
Central Europe	13	6	6	<b>7 times</b>
South and Central America	43	9	7	<b>7 times</b>
NWS Europe	32	7	22	<b>4 times</b>
Oceania	15	1	2	<b>3 times</b>
North America	3	5	23	<b>0.5 times</b>

SOURCE: Data on world population and Internet users from Miniwatts International website, September 2005

current arrangements for management of the Domain Name System, but in recognition that other major national governments (notably the coalition of Brazil,



Russia, India, and China) were seeking to increase their influence over global administration of the Internet, the new Internet Governance Forum (IGF) was created under the auspices of the UN. Figure 5 above gives an overview of growth rates in Internet usage in global regions.

3.20 As ICANN has striven to emphasize its international outreach and consultation with bodies such as the GAC and the UN, this period can also be characterised by ongoing ‘struggles at home’, as one interviewee wryly put it. The recent agreement with Verisign, the Registry responsible for running dot.com and dot.net amongst others, for renewal of the dot.com contract has undoubtedly created controversy and disillusion across the whole ICANN community.. It was generally held across most of our interviewees that the Verisign deal essentially came down to the ICANN Board conceding to Verisign some potentially very lucrative contractual changes, in return for an agreement to settle, a decent financial pay-off, and considerable sums saved on legal fees for ICANN. Again most of our interviewees, including some Board members, were either critical or very critical of the Board’s handling of this issue in terms of the way it communicated with the GNSO, particularly as the GNSO Council had advised against settlement with Verisign at that time.

***Quote Box 4: On the dot.com settlement***

*‘Sometimes we have to take our lumps’*

*‘The process is hard to live with, rather than the decision’*

*‘The Board said to the GNSO...you’ll eat it and you’ll like it...and that hurt the functionality of the GNSO and sapped its strength’*

3.21 In May 2006 there has been another example of a Board decision, the rejection of the bid by the ICM Registry for a dot.xxx generic domain, which has caused some unease across the community about the relationship of ICANN and the US Government. A range of interviewees have expressed concern to us about the lack of clarity in the decision-making process for this particular application, and more recently we have seen members of the Board publicly question the basis of this decision. One interviewee suggested to us that the GAC had been used to legitimate a decision that had effectively been determined by intervention from the US

Government. [It is important to note that this is the view of the interviewee, and not necessarily a view held by the authors of this report.] On a wider transparency point, the transcript of the Board meeting in which this vote was taken is publicly available, and Board members were invited to make a public statement about their voting decisions.

3.22 It is perhaps a combination of this realignment of ICANN towards the international Internet governance community, management of ongoing legacy issues with strong incumbents such as Verisign, and a need to forge an independent and constructive relationship with national governments that has led to some degree of uncertainty about what the mission of ICANN should be and how it should be set up in organizational and strategic terms to deal with such a mission. Some of our interviewees have suggested to us that ICANN's role should actually be a very narrow 'technical standards' one, which involves technical management of the DNS to ensure security and stability of the Internet. Such a position is encapsulated by the first of ICANN's stated mission points in its Bylaws, 'preserving and enhancing the operational stability, reliability, security, and global interoperability of the Internet'. There is a tendency for some stakeholders, particularly those from the registration industry, to hold on to this first mission as foundation for arguments that ICANN is extending too far out of its putative 'narrow' remit. As gTLD Registries have argued in a recent statement about the Verisign settlement:

The general policy making authority granted to ICANN to preserve the stability and security of the DNS and the legacy policy authority [...] created a 'picket fence' around ICANN authority [...] ICANN could establish policy and/or best practices affecting issues outside the picket fence, but could not mandate registry or registrar compliance with such policies.

3.23 There is a potential disconnect between this narrow interpretation of its role, and other more widely applicable aspects of its stated mission such as 'promoting and sustaining a competitive environment', 'employing open and transparent policy development mechanisms', and 'remaining accountable to the Internet community'. A recurring view amongst some senior and experienced interviewees is that ICANN struggles to figure out what it is and what its role should be.

***Quote Box 5: On ICANN's scope***

*[ICANN] is not a regulator...neither is it an international policy making body like the UN...it has a flimsy legal status... and it relies on the registration industry for ninety percent of its revenue. Work that one out.*

*ICANN has no budget and no power...and it is pretending to be somebody*

*We don't believe the organization is going in the right direction...a mini ITU was never the deal*

*'You can't just say that ICANN only does technical things. These things affect national sovereignty and the spirit of Independent countries'*

*'There is nothing about the root file which requires an ICANN'*

3.24 As reiterated above, these issues are strictly out of scope for our study. However it is important that historical context and prevailing views, either of unease or sometimes anger, are taken into account when considering the current position and performance of the GNSO. Although practically all our data collection approaches have steadfastly stuck to the GNSO, it has often been the case that people's views on the GNSO have been influenced by more explicit views on ICANN as a whole. Some interviewees have equated GNSO with ICANN on the grounds that the GNSO is *de facto* the major constituent part of ICANN. Others have known relatively little about the GNSO despite being active participants in the ICANN process in other areas. One or two relatively senior officials from ICANN advisory committees have simply implied in response to an interview request that a discussion about the GNSO would have to be a very short discussion indeed.

***Quote Box 6: On ICANN people and doing this Review***

*'You have to be careful who you listen to'*

*'You have to build a more complete picture...  
For 5 or 6 years [ICANN] was the centre of my \*\*\*\*ing universe*

*'I'm not sure what the psychological term is...but it is a problem when people get too close to things to see clearly'*

3.25 The GNSO Review has been a complicated research challenge. The world of ICANN and the GNSO is populated with strong views, personalities, and some interviewees have suggested or implied, ‘prevailing myths’. There is an inevitable paradox at stake in that in order to be able to do justice to a review of the GNSO, it is necessary to enter its domain, read the mailing lists, get to know the faces, understand its background, and how it ticks. Even one GNSO person told us that ‘no one understands the GNSO. I’m trying to understand it myself’. The deeper one goes however, the more inclined one becomes to buy into arguments that ICANN (and by association the GNSO) is a necessarily *sui generis* and unclassifiable body which has an inherent justification to resist outsiders in the form of ‘consultants’ prescribing a usual suspects list of generically applicable remedies for change. One Board member suggested to us in interview that

Once you learn about this thing, it becomes very fascinating, like a little Petri dish [...] Your report needs to show awareness of ICANN. You need to make yourself look like insiders otherwise it will be dismissed.

It has not been our intention to ‘look like’ anything in particular. In the short space of time allowed for this research we have tried to get as many different views as possible, to familiarise ourselves as much as possible with the personalities, the context, the dynamics, and Bylaws and rules of engagement of ICANN. One former senior ICANN person suggested that the ‘GNSO would be paranoid that ICANN staff had commissioned this review from the LSE to have them recommend closing down the GNSO’. We noted this comment down in the same way that we have noted every other one of the hundreds of comments that people have given us.

## 4. The GNSO

4.1 The primary role of the GNSO is to develop and recommend to the ICANN Board substantive policies relating to generic top-level domains (Article 10, ICANN Bylaws). We go into detail on the Policy Development Process (known as the PDP) below, however at this point it is worth sketching out some of the main areas that have been subject to detailed policy work since 2002. Looking at the formal policy development work of the GNSO since December 2002 (see Figure 6 below), there are four main strands as follows:

*[a] Transfers and deletions of domain names:* Two early pieces of policy work culminating in early 2003 related to the actions of registrars and handling of registered domain names. The ‘inter-registrar transfer policy’ developed standardised procedures covering the way in which a registered domain name may be transferred from one registrar to another. This policy, implemented in late 2004, divided up administrative obligations on ‘gaining’ and ‘losing’ registrars, to reduce duplication of workload and harmful consequences to the registrant. The policy on ‘expired domain name deletions’ also had a similar objective to reduce the nefarious consequences for registrants who find that the registration period on their domain names has expired without their knowledge, and that without their knowledge, the domain name has been dumped back on the market and purchased by other registrants. This policy work set some ground rules for notification of the registrant and a redemption grace period.

*[b] Procedures and policies relating to the WHOIS database:* Since 2001 the DNSO and the GNSO have carried out a range of policy-oriented work relating to the WHOIS database, and access privileges to this information held within. We go into more detail on WHOIS policy work directly below, as this has absorbed a large majority of the GNSO workload since 2002.

*[c] Obligations under new (and more recently, existing) gTLD Registry contracts:* In 2004 the GNSO initiated policy work on procedures to

**Figure 6: Summary of policy development work carried out by the GNSO since 2002**

	<b>PDP launched</b>	<b>TF or final report</b>	<b>Adopted by the Board</b>
<b>Inter-registrar transfer policy</b> : procedures for transferring a domain name from one registrar to another		Feb 2003	Apr 2003
<b>Expired Domain Deletion Policy</b> : procedures for registrars on deletion of domain names for which registration period has expired	Sept 2002	June 2003	Sept 2004
<b>WHOIS Review</b> (became Bulk Access, Accuracy, Data Reminder Policy)	Feb 2001	Nov 2002	Mar 2003
<b>WHOIS 1</b> : Procedure for restricting access to WHOIS database for marketing purposes	Dec 2003		
<b>WHOIS 2</b> : Policy on which data should be held in the WHOIS database	Oct 2003		
<b>WHOIS 3</b> : Procedures for improving the accuracy of data held in the WHOIS database	Oct 2003		
<b>New registry services</b> : procedures for reviewing the impact of new domain names services introduced by GTLD registries	Nov 2003	June 2005	
<b>Combined WHOIS</b> : Improving notification and consent for the use of contact data in the WHOIS database	Dec 2004	Apr 2005	
<b>Combined WHOIS</b> : Policy for handling conflicts between registry/registrar legal obligations under privacy laws and contractual obligations to ICANN	Dec 2004	Sept 2005	
<b>Purpose of WHOIS and WHOIS contacts</b> : establishing the purpose of the WHOIS database, and contact information that will be held within	June 2005	Mar 2006	
<b>Introduction of new GTLDs</b> : procedures for establishing the number, type, and allocation process for new GTLDs	Dec 2005		
<b>Amendments to contractual conditions for existing GTLD Registries</b>	Feb 2006		

ensure that gTLD Registries notify ICANN of any new services or changes to service delivery that are introduced. The final report was published in June 2005, setting out consensus policy on the steps that should be followed by GTLD Registries and ICANN staff for reviewing and agreeing to specific changes to existing services or introduction of new services. More recently, in February 2006, a much larger and potentially more controversial piece of policy development work has begun on possible improvements that could be made to existing gTLD Registry contractual conditions.

*[d] New generic TLDs:* In December 2005 the GNSO initiated new policy development on procedures governing the introduction of new generic TLDs. ICANN selected seven new generic TLDs in November 2001 (a mix of sponsored and unsponsored), and then issued a further request for applications for sponsored TLDs in March 2004. This new PDP takes a broad look at what

types of generic TLD are most desirable, how many should be introduced and during what time span, and by which allocation mechanism TLDs should be introduced. This is currently one of major pieces of policy development under way in the GNSO. Related to new gTLDs, but not quite under way as formal policy development work, is the issue of Internationalized Domain Names (IDNs). The first ICANN committee was formed back in September 2001 to discuss all issues relating to the introduction of IDNs. The ICANN President's Advisory Committee announced at the start of 2006 that ICANN would be running a test-bed for the first IDN prototype forms. Now the GNSO Council is currently in the process of setting up an informal working group to consider key policy issues that will arise from this work on IDNs.

***Quote Box 7: On GNSO policy work***

*'We have done a lot of proactive policy development'*

*'People are generally happy with the status quo'*

*'It is hard to make policy when interested parties are so involved...  
There isn't another industry where the incumbents set the pace and the agenda'*

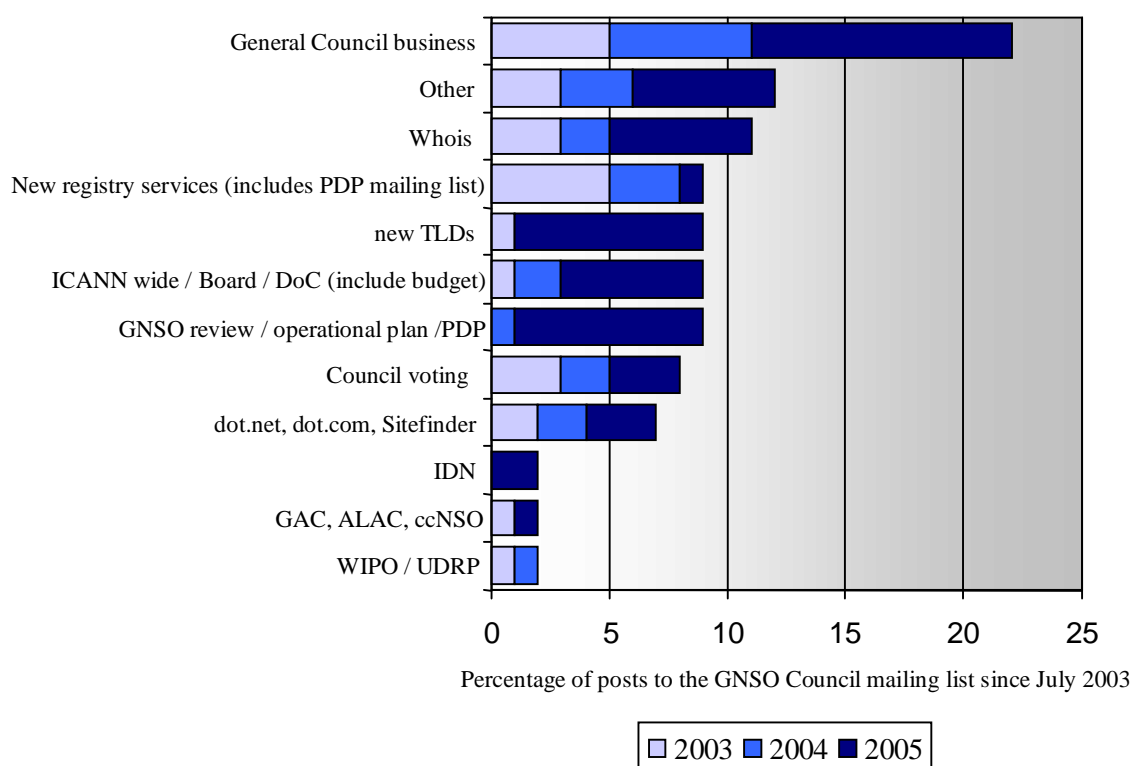
*'The Council does not have much output'*

4.2 Thinking about these policy development issues outlined above, it is worth reviewing how the GNSO Council time is accounted for. As an indicative picture, Figure 7 below gives a rough indication of the types of issues that have taken up the GNSO Council time since June 2003. This Figure consists of some basic content analysis of around 1,500 Council mailing list postings, presented year on year. Admittedly this is not a completely comprehensive account as it may be that not all topics are discussed on the public mailing list, however given that postings average around 2 per day over three years, we think that it is a fairly comprehensive picture. Three of the four main policy issues outlined above, WHOIS, new registry services, and new generic TLDs, account for around one third of Council discussion. Figure 7 does not include data from 2006, however this would largely have been taken up by discussion over new generic TLDs, the new policy development work on amendments

to existing gTLD Registry contracts, and other issues such as election of a new GNSO representative to the Board.

4.3 Figure 7 indicates discussion on some other important themes already referenced in this report. Around 7 per cent of discussions have focused on one of a range of issues relating to Verisign, either the decision to reassign dot.net, the legal settlement over the contract for dot.com, or the incident in September 2003 when Verisign introduced a new service to redirect Internet users making unresolved requests in the dot.com and dot.net domains to a dedicated (and chargeable) directory and search service (known as ‘Sitefinder’). Just under one fifth of all mailing list discussion has focused on a range of issues relating to ICANN-wide strategy or operations (including discussion about the ICANN Strategic Plan and annual budgets), GNSO Review work, the GNSO operational plan, and the policy development process in general. It is surprising that almost 10 per cent of all mailing list postings since June 2003 have related to either the current GNSO Review or the previous review of the GNSO Council in 2004. On the strength of this data, it would be hard to say that there were low levels of awareness across the GNSO about the current work. There have been almost as many postings about WHOIS as there have been about review work.

**Figure 7: Main themes discussed on the GNSO Council mailing list, by year**



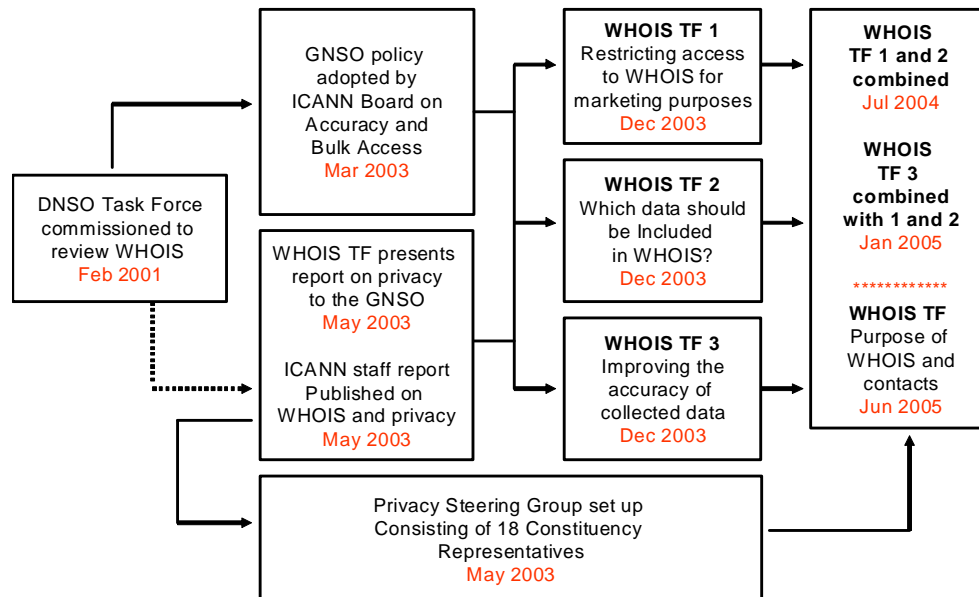


4.4 Perhaps the most enduring aspect of the GNSO policy development work has been on issues relating to the WHOIS information service. Figure 8 sets out a basic overview of WHOIS work. This predates the establishment of the GNSO and can be traced back to February 2001 with the formation of the first WHOIS Task Force convened to conduct a general review of the service. The final report from this Task Force was completed in November 2002 with general guidelines on accuracy of registrant data and restrictions on access for bulk marketing purposes. These recommendations were adopted by the Board in March 2003. Around this time certain members of the original Task Force raised issues concerning privacy of registrant contact data, and presented an impromptu report to the Council as a whole requesting the need for an ICANN staff report on privacy issues and the WHOIS service. A steering group was set up in May 2003, led by the Council Chair and consisting almost solely of Council members and key Constituency officials, to oversee progress on this work. It was subsequently decided that even though the original Task Force had considered issues relating to restriction of access to WHOIS for marketing purposes, the definition of ‘marketing purposes’ had not been defined tightly enough, and hence the need for further policy development on these issues. Therefore in December 2003 the Council voted to initiate three new strands of policy development relating to three separate aspects of WHOIS as set out in Figure 8:

- [1] Restricting access of WHOIS for marketing purposes;
- [2] Defining which data elements should be collected in the WHOIS database; *and*
- [3] How to improve the accuracy of WHOIS data in the database.

It was decided in July 2004 that elements of [1] and [2] above were inter-related to such an extent that the two Task Forces should be combined as one, and a year later to

**Figure 8: An overview of WHOIS Task Force activity since February 2001**



complete the circle, it was decided that all three Task Forces should be combined in one overarching WHOIS Task Force. In June 2005 the decision was made to initiate policy development on the purpose of WHOIS data and specific contact information collected.

4.5 We have had a range of opinions from our interviewees on exactly how much WHOIS has achieved in terms of useful substantive policy recommendations that are up-to-speed with wider views and positions held in privacy and data protection communities worldwide. Some people have suggested to us that WHOIS represents an ‘unravelling process’, in the sense that what started with a relatively straightforward review of the WHOIS information service has surfaced a wide range of complicated and controversial public policy issues. As one policy thread is pulled, unravelling leads to more threads coming loose, and eventually one finds oneself having to start from basics once again. One frank view from a former Board member was as follows:

The GNSO has basically spent most of its time on two things. One is the WHOIS for which there is no clear solution. Because worldwide law enforcement has made it very clear that it doesn’t care what ICANN does, it’s going to control that

outcome [...] so many people view that fumbling around on WHOIS as irrelevant [...]

A more optimistic line from other people has been that WHOIS represents a process of ‘policy learning’ that has laid the groundwork for some important issues to be addressed in the coming years. Others meanwhile have suggested that WHOIS is the policy product of intractable groups of interests at Constituency level with incentives to delay any resolution or minimise the administrative costs of compliance for business.

**Figure 9: Estimated hours and notional costs of policy work on WHOIS since the first Task Force was established in 2001**

	TF members	TF and Council members	Total hours	Conservative notional cost (US\$000s)
DNSO Task Force on WHOIS and Council policy recommendations	11	8	14,600	2,600
Privacy Steering Group	7	11	3,500	630
TF 1, 2, and 3	19	10	11,100	2,000
Combined WHOIS TF Purpose and contact data	14	10	9,200	1,700
<b>TOTAL</b>	<b>51</b>	<b>39</b>	<b>38,400</b>	<b>6,930</b>

**Explanatory Note:** We estimated total hours spent by Task Force members and Councillors from data supplied by the GNSO Secretariat. Task Force members spent on average 8 hours per week. Councillors who are members of Task Forces spend on average around 12 hours per week on all GNSO related work. We therefore estimate 8 hours per week for these Councillors on the assumption that they are involved in other GNSO Council related activity. These are conservative estimates for weekly averages, and some Councillors and Task Forces might well spend more time. We calculated total hours, and then estimated notional costs using US\$180 per hour (again a conservative estimate for professional consultants).

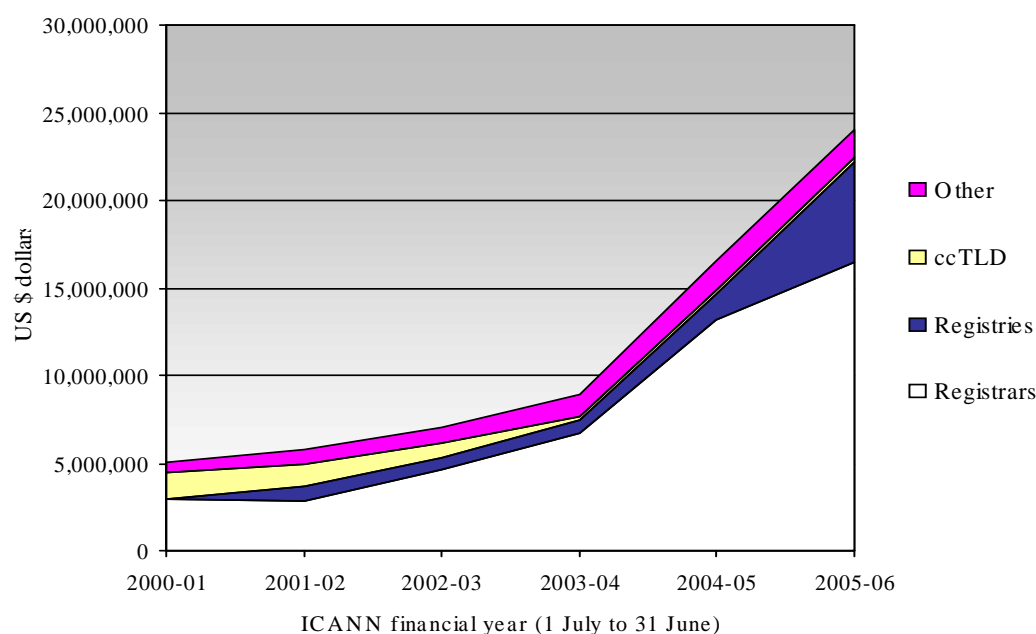
4.6 Regardless of particular perspectives on the impact of WHOIS over the last 5 years, it is worth considering for a moment the sheer scale of personal resources that have been invested in this policy development work. We estimate from figures provided by the GNSO Secretariat that a Task Force member (who is not a Council member) will spend on average 8 hours per week on Task Force activity. This average will of course be taken across very active members and less active members.

Similarly we estimate that Council Task Force members will spend roughly the same. Figure 9 above provides a crude and probably conservative estimate at just over 38,000 hours for total time invested in all WHOIS activity since day one. All of this time is given up voluntarily by members, although some Constituency members are subsidised by their employers. Using a basic notional cost of US\$180 per hour, we estimate that WHOIS has cost its participants somewhere in the region of US\$7 million over 5 years.

4.7 It is worth putting this indicative cost figure of US\$7 million over five years into some kind of overall context. Let us briefly step back to consider how the GNSO can be contextualized in terms of ICANN revenue and expenditure. How does this conservative figure of US\$1.4 million per year of notional costs (and this is just a majority proportion of all GNSO policy work) compare to the overall situation?

4.8 Figure 10 gives an overview of ICANN revenue by source since 2001. Over this period total revenue has increased from US\$5 million in 2001 to just under US\$25 million in financial year 2005-06. A rapid increase in revenue is clearly visible. One answer to this question lies in the growth of registrar markets, revenue increases in registrar payments and contributions to ICANN. Other factors include large one-off payments from registries, in 2005-06 for example revenue gained from the dot.net agreement with Verisign. Revenue is due to increase significantly again with proceeds from the settlement with Verisign on the dot.com domain at the end of 2005. Other minor sources of revenue for ICANN came from the country code community in the early years after 2000, however ICANN annual financial reports suggest that countries were often reluctant to pay contributions, and sums pencilled to the budget under country codes have decreased significantly.

**Figure 10: Breakdown of ICANN revenue by source, by year**



**NOTES:** Registrars revenue includes the following categories from ICANN Adopted or Approved Budgets: ‘Transaction based registration fee for registrars’, ‘Variable Registrar support’, ‘Registrar Application fee’, and ‘Annual Registrar Accreditation fee’. Registries revenue includes ‘Fixed Registry fees (Tiers 1 and 2)’, ‘Fixed Registry fees (Tier 3)’, ‘New sponsored TLD initial fixed fee’, and ‘dot.net agreement fees for 2005-06’. CcTLD revenue includes contributions from Tier 1, 2, and 3. Other category includes the following: ‘Address registry fees, Contributions, Miscellaneous items’.

***Quote Box 8: On the registration industry and ICANN revenue***

*‘The Registrars wondered whether to send a cheque not to ICANN but to their broker to buy Verisign shares’*

*‘There is an underlying controversy about how ICANN came to be a 50 million dollar organization from the five million dollar organization’*

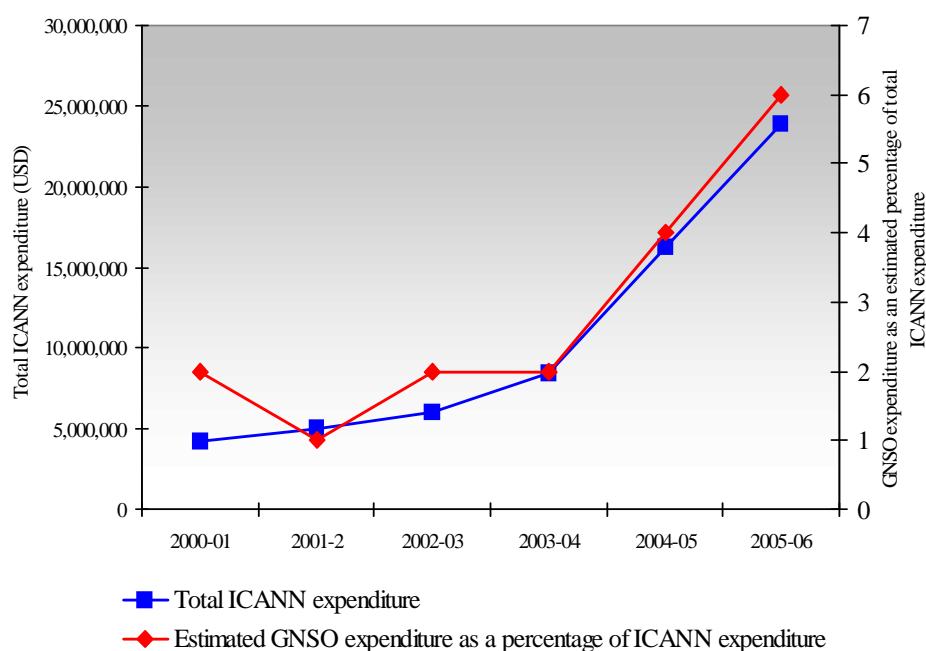
4.9 Figure 11 shows that total ICANN expenditure follows a similar trajectory to that of revenue. We were not able to get detailed figures from ICANN staff on the proportion of total expenditure that is allocated to the GNSO. We constructed a broad estimate based on ICANN published accounts. Again, it was suggested to us that a high proportion of ICANN expenditure is allocated to matters relating to interests represented in the GNSO not least fighting often expensive litigation action by registries and registrars. However this is not strictly the same as expenditure allocated

to the GNSO policy development work. We estimate that expenditure on staff working directly to and with the GNSO, plus related travel and other costs, has grown from around 2 per cent of total ICANN expenditure in 2003 to around 6 per of total ICANN expenditure in 2005-06. Six per cent of US\$25 million is roughly US\$1.5 million, roughly equivalent to the annual notional cost of policy work that has gone into WHOIS over the last five years.

***Quote Box 9: On expenditure on GNSO***

*‘Staff should support the GNSO...but ICANN starves policy to death’*

**Figure 11: ICANN expenditure on the GNSO as a percentage of total ICANN expenditure, by year**



NOTES: GNSO expenditure estimated as follows: **Total minimum staff estimate (2006, 2005, 2004)** 4.85, 2.75, 0.75 **Estimated salary cost per head (2006, 2005, 2004)** 118652, 96068, 102395 **Salary cost estimate for GNSO work (2006, 2005, 2004)** 575463, 264186, 76796. **Travel 2 policy staff to travel - 10 trips per year \$50,000 each (2006, 2005)** 100000, 100000. **Premises and overheads** Equal to salary costs. **Advertising and other administrative costs** 50000 per year for 2006, 2005, 2004. **GNSO Review** 150000. **Nominating Committee member travel** per year 25000.

4.10 ICANN revenue and expenditure issues coincide and indeed collide at times with broader scope issues raised above. Registration industry stakeholders make the

argument that much of ICANN spending is on areas that fall outside or on the very peripheries of the ICANN remit (at least the registration industry's interpretation of this remit). As we have heard in many of our interviews with representatives from the registration industry, registries and registrars are reluctant to 'fund' (given the fact that around 90 per cent of total ICANN revenue comes from these stakeholders) 'unmandated' expansion of ICANN's mission. Again, it is not within the scope of this Review to say anything on this subject. However one interesting point on prioritization of expenditure emerges from this registration industry discourse. GTLD Registries make the point that individual expenditures associated with key projects such as US\$270,000 for IDNs seem 'very low given their importance for the security and stability of the DNS'. They go on to make the point that 'the amount budgeted for translation of ICANN's own website and brochures is more than the amount shown in the budget for addressing the entire issue of IDNs'.

## 5. The Constituencies

5.1 A major part of this research has been to assess the quality of representation of the Constituencies, in particular the coverage they get in representing the interests of all organizations of their type worldwide, the effectiveness with which they represent their members' interests, and the extent to which the Constituency system as a whole functions adequately. We go into detail on each Constituency further below, however it is worth briefly characterizing some of the contrasting and enduring opinions across the six Constituencies before looking at each in more detail. We designed an online survey for Constituency members, primarily to find out about how they viewed their own Constituencies and the work of the GNSO in general. This survey was widely advertised, and each Constituency member in the Council and any Constituency officials or staff support were emailed and asked that their members be alerted to this research and encouraged to fill in a survey. We also had our team of 10 LSE graduate students working by telephone and by email to identify Constituency member contacts and encourage survey completion. There was wide disparity across the six Constituencies in the quality of contact details made available for reaching Constituency members. Some Constituencies did not supply contact details on

grounds of data privacy, and agreed to alert members independently via internal channels.

5.2 Given the internal publicity which the Review has had, the work by our research team to increase take up, and in some cases written acknowledgements from Constituency members that they would alert their members to the survey, we take the view that the response rate received over the two months is a reasonable indication of the degree of actual participation in the Constituency process. Figure 12 below sets out the number of members each Constituency currently claims, and the response rate we have received to date. This response data shows that the registration industry constituencies have shown good turn out, especially since this survey is relatively detailed and comes with no ‘prize-draw’ incentive for completion (or punitive leverage for non-completion). The Non-commercial Users Constituency has also shown a solid response rate at one quarter of its members. Business Constituency response has been moderately less impressive with only one fifth of members responding. Again we might give this response the benefit of the doubt given time pressures and the fact that we could not identify Constituency members other than Council member representatives responding. At the bottom end of the table, Internet Service Providers show a response rate of one fourteenth.

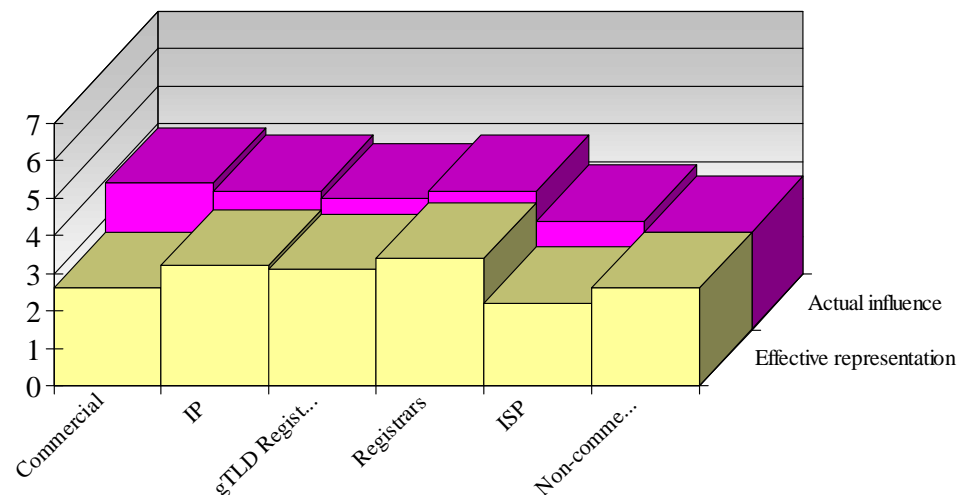
**Figure 12: Response rates to our survey for Constituency members**

	Constituency Members	Surveys completed	Completion rate
Registrars	56	37	Two thirds
GTLD Registries	27	10	Two fifths
Non-commercial users	44	11	One quarter
Business and commercial	39	7	One fifth
Intellectual property	33	6	One fifth
Internet Service Providers	42	3	One fourteenth
TOTAL	241	74	3 out of 10

5.3 With a total survey response of 3 in every 10 members it is just about possible to draw some conclusions from the wider dataset on views across Constituencies. As the response rate from the some Constituencies is pretty low, little can be drawn from the survey on views from these Constituencies.



**Figure 13: How our survey respondents rated the degree of ‘effective representation’ and ‘actual influence’, by Constituency (N = 107)**



5.4 Figure 13 above draws on 107 survey responses in total, including Constituency responses and data from responses by individuals with knowledge of ICANN and GNSO processes. It shows survey respondents views on two variables, first how effectively each Constituency represents the interests of its member group, and second, how much actual influence the Constituency has over policy development in the GNSO. The Registrars clearly score most consistently highly on both variables, suggesting good degree of representation and high influence to boot. This may be explained by the fact that almost half the population is made up of Registrar constituency members, but this would also correspond with other findings in this report on Registrar participation at Constituency level. GTLD Registries and IP Constituencies tend to score relatively highly on both variables too, suggesting that there is a pretty good degree of consistency between representation and influence. This somewhat contradicts the survey response rate data for the IP Constituency above, suggesting that there is a decent level of active participation at IP Constituency and just possibly a level of apathy on responding to our survey. The Non-commercial Constituency shows almost perfect consistency between representation and influence, even if the level of influence is deemed to be lowest across all Constituencies. The Constituencies with the largest negative deficit, in terms of perceived lack of representation in relation to actual influence, are the Business Constituency and the ISP Constituency.

5.5 These views provided by our survey respondents are of course perceptions held, and may not necessarily reflect the actual quality of representation and degree of influence across the Constituencies. One way of evaluating how comprehensive Constituencies have been in recent years in collecting and conveying views of their members is to evaluate the range of written Constituency statements. These are available on some Constituency websites, but they are also usually copied or summarised in final policy reports. We got our student researchers to find all current Constituency statements published on Constituency websites, and where missing, to search for Constituency statements integrated into final reports. We reviewed these documents to find out what degree of detail was available on the extent of participation across Constituency members. Figure 14 below summarizes our findings using different coloured ticks to represent different findings (see key below the figure). Our researchers spent almost 24 hours in total searching and documenting these statements. They are not available centrally in one place (surprisingly), and so we trawled thoroughly, probably more so than most uninitiated browsers would be able to endure in looking for information on Constituency positions.

5.6 The BC and IP Constituencies have relatively detailed and comprehensive written statements on their positions available on their websites (respectively, [www.bizconst.org](http://www.bizconst.org) and [www.ipconstituency.org](http://www.ipconstituency.org)). The BC in particular has a wide range of documents across most of the key issues mentioned above (some of which present views, which are jointly across the IP and ISP Constituencies). The IP Constituency also has a comprehensive approach to publishing its views on its website. The Non-Commercial Constituency has a good range of documents also, mainly on issues related to WHOIS. The gTLD Registries Constituency not only has a pretty good range of written statements available on its website, but also contains information on the number of Constituency members who have contributed to formulating the position. We could find only two other examples of specific data published on contributing members (both shown in red), one very recently in a document produced by the Registrar Constituency on amendments to conditions of existing gTLD Registry contracts, and one from the BC around 4 years ago for a statement on evaluation of new generic TLDs. We found very little information available on either one of the Registrar websites, or the ISP website, giving specific information on Constituency positions.

**Figure 14: The availability of written statements from Constituencies on particular positions**

		BC	ISP	IP	GTLD	REG	NCU
<b>2002</b>							
Redemption Grace Periods for Deleted Names	Apr	✓					
Evaluation of new TLDs	Apr	✓					
ICANN Evolution and Reform Process	Sep	✓					
Differentiated expansion of the name space	Dec	✓					
<b>2003</b>							
Review of Uniform Domain Name Dispute Process (UDRP)	May	✓	✓	✓	✓	✓	✓
ICANN call for new sTLD applications	Aug	✓					
<b>2004</b>							
New registry services PDP	Feb	✓	✓	✓	✓	✓	✓
WHOIS 1	Apr	✓	✓	✓	✓	✓	✓
WHOIS 2	Apr	✓	✓	✓		✓	✓
WHOIS 3	Apr	✓	✓	✓		✓	✓
Comments on proposed new sTLDs	May	✓					
Dot.net reassignment	May	✓			✓		
<b>2005</b>							
WHOIS 12 Conflict resolution		✓		✓	✓		✓
WHOIS 12 Notification and consent	Jan	✓		✓			✓
ICANN Strategic Plan	Feb			✓	✓		✓
Purpose of WHOIS	Jul	✓	✓	✓	✓	✓	✓
Dot.com settlement	Dec	✓	✓	✓	✓	✓	✓
Number of Council reps				✓			
<b>2006</b>							
New gTLDs PDP	Jan	✓	✓	✓	✓	✓	✓
Review of 2005 new sTLD	Jan	✓					
IDNs					✓		
Amendments to existing contracts for registries PDP	Mar	✓	✓	✓	✓	✓	✓
✓ Written statement found on the Constituency website ✓ Written statement found as part of an overall report of a Task Force of the GNSO Council ✓ Written statement found with data on the number of Constituency members voting							

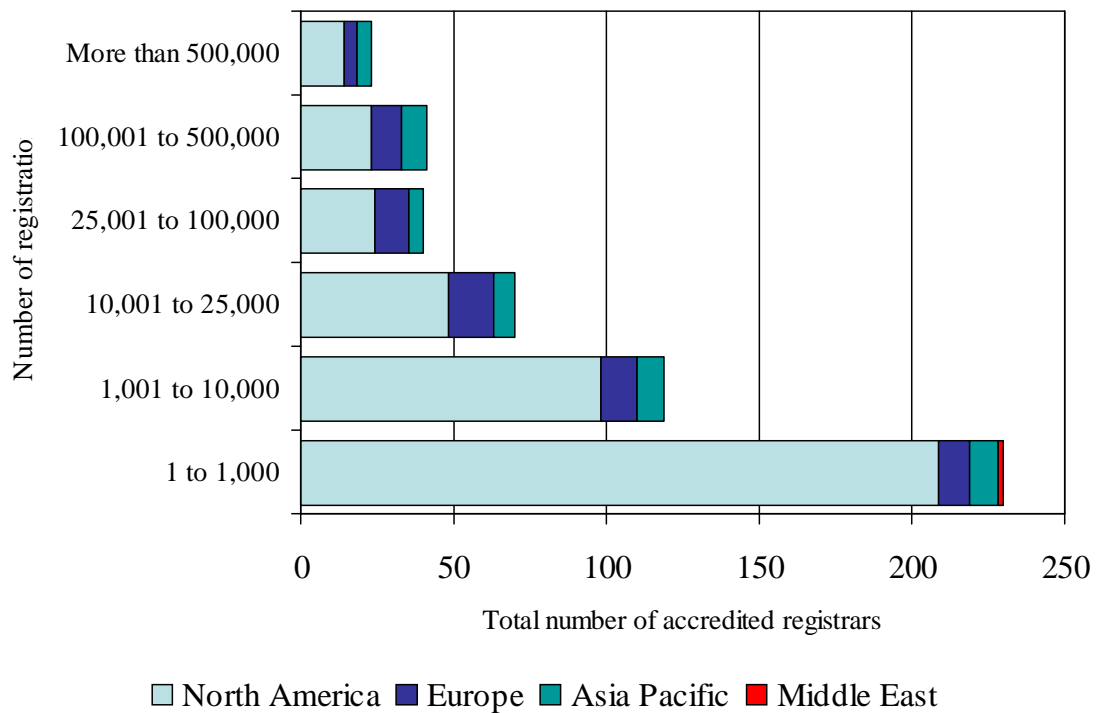
## 5a. Registrar Constituency

5a.1 The Registrar Constituency represents the views and interests of professional domain registrars that have been accredited by ICANN to act as Registrars for the

generic domain name space. At the time of writing there were around 530 such registrars. This excludes organizations with registrar functions whose primary relationship with ICANN is as a gTLD Registry. Registrar Constituency member organizations are required to designate a registered representative who has authority to speak on behalf of, and vote on behalf of, her member organization. Members may also appoint any number of additional representatives to the Constituency (known as Non-Registered Representatives) who have privileges as observers. The Constituency publishes details of its membership and contact details on its website. It has four elected one-year officer positions (Chairman, Secretary, Treasurer, and Technology Officer), and appoints three representatives from separate ICANN geographic regions to the GNSO Council. GNSO Council representatives may only serve 2 consecutive 2-year terms. The Registrar Constituency have a dedicated website, however confusingly there are two separate sites (presumably one new and one old) with two separate URLs.

5a.2 Figure 15a shows the distribution of accredited registrars by number of registrations and global region. There are around 530 accredited registrars, however this is perhaps slightly misleading, as many of these named registrars are essentially owned and run by the same organizations, and in reality, there are around 200 bona fide organizations existing behind this total accredited registrar number. The skew towards North America is also exaggerated by this factor, however it is certainly the case that in terms of registrations, North American companies dominate registrar markets in the gTLD space. The total number of gTLD registrars increased steadily year on year from around 80 in 2001 to around 160 in 2004.

**Figure 15a: Number of accredited registrars and registrations held, by global region**



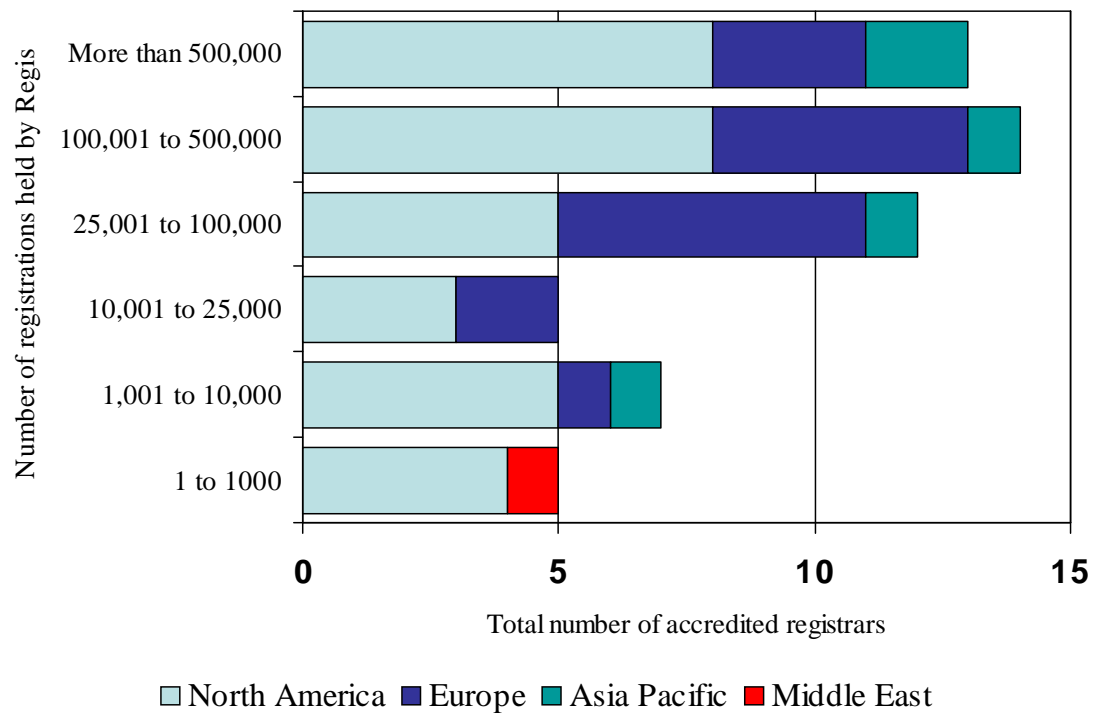
5a.3 Looking at the membership of the Registrar Constituency in Figure 15b it appears to incorporate a relatively nicely balanced mix of large and small registrars, as well as a decent spread of registrars legally registered in geographic regions other than North America. Comparing Figures 15a and 15b it is noticeable that the distribution shape has almost reversed, in the sense that membership tends to be more common for larger registrars, and relatively fewer of the medium-sized category registrars figure. One interviewee who is affiliated to the registrar constituency offered this summary of the registrar market segments:

There are the big guys...the million plus club...for example, Arcom, Tucows, Register.com, Schlund and GoDaddy. Their interests are aligned in volume discounts...Then there are the niche players, 'taste testers' for example...Then there are the regional web-hosting companies with 25,000 to 100,000 domain names. They are a good barometer...the moral centre of the registrar.

Looking at Figures 15a and 15b together, this 'moral centre', the registrars between 25,000 and 100,000 tend to figure relatively well on the Constituency membership list at roughly 30 out of 80. One small volume registrar from the Middle East known as TAGI Domains is an interesting recent addition to the membership list (especially

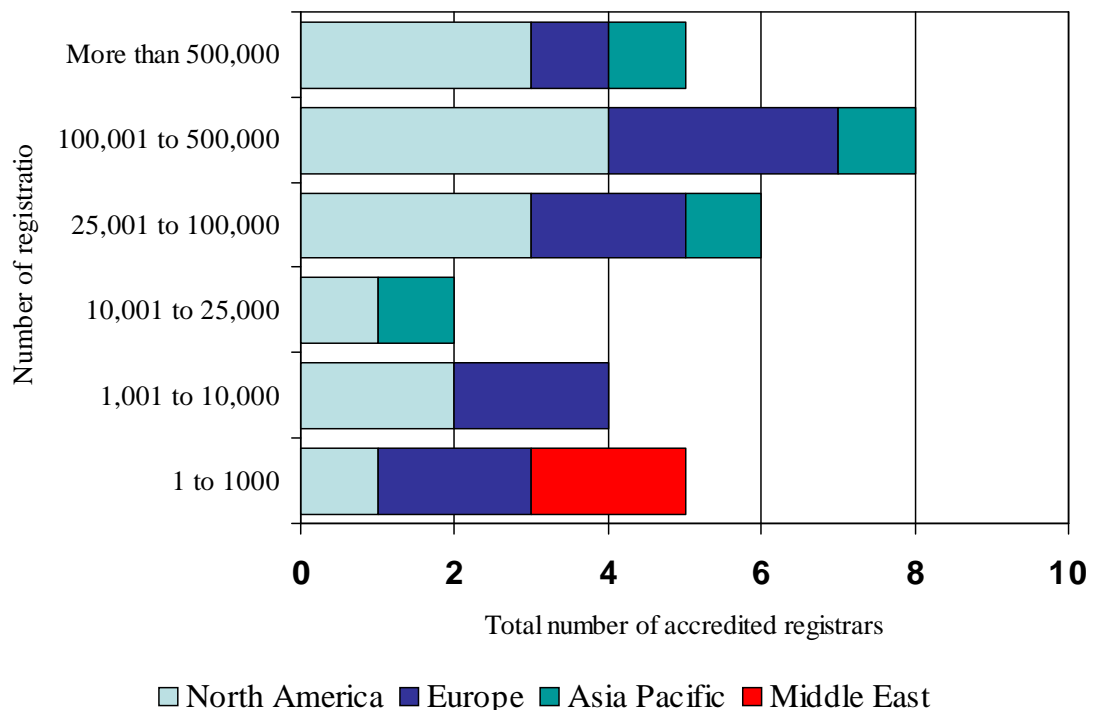
since other incorporated parts of this organization are affiliated to the Business and IP Constituencies).

**Figure 15b: Registrar Constituency members *only***



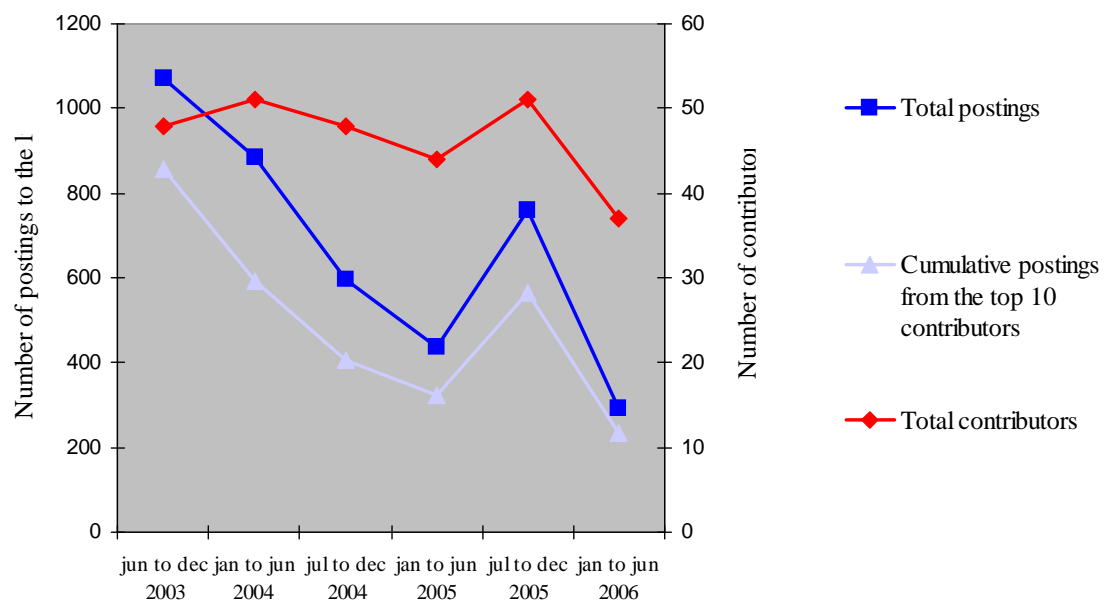
5a.4 Comparing Figure 15b with 15c below the distribution of survey respondents is not bad either. In total we had 37 registrar responses out of possible 56, and these responses achieved good coverage in terms of size and type of registrar, as well as global regional spread.

**Figure 15c: Registrar Constituency members responding to our survey**



5a.5 The Registrar Constituency has an expansive archive of its mailing list dating back to June 2003, with over 6,000 postings in total and average of between 5 and 6 postings per day. This incidentally is three times the size of the GNSO Council mailing list. As mentioned already, some basic tallying of mails can reveal quite a lot about the level of intellectual activity in the Constituency. Figure 16 below presents a simple tally of total postings per half year over 3 full years, total individuals contributing, and number of postings by the top 10 contributors (as a guide to strength in depth of the discussion). It is interesting that total postings per half year has decreased steadily from around 1,000 to 200 with a slight blip in the second half of 2005 largely due to the general outrage that was felt across the Registrar community at the dot.com settlement terms between ICANN and Verisign. It is also the case that the proportion of total postings made by the top 10 contributors has increased, suggesting a consolidation of the communication between central personalities (this does not necessarily mean these top 10 every half year are the same individuals). The number of total contributors however has remained stable at around 40 or 50 per half

**Figure 16: Number of postings made to the Registrar Constituency mailing list, by year**



year. Given the membership of the Constituency is 56, again this is a relatively decent rate of sustained communication (assuming a small proportion of contributors may be other than member organization representatives).

***Quote Box 10: On the Registrar Constituency***

*'The Registrars are not incumbents...there is lots of competition between them'*

*'Unlike some of the Constituencies, the Registrars are not frozen in time...they are a dynamic group'*

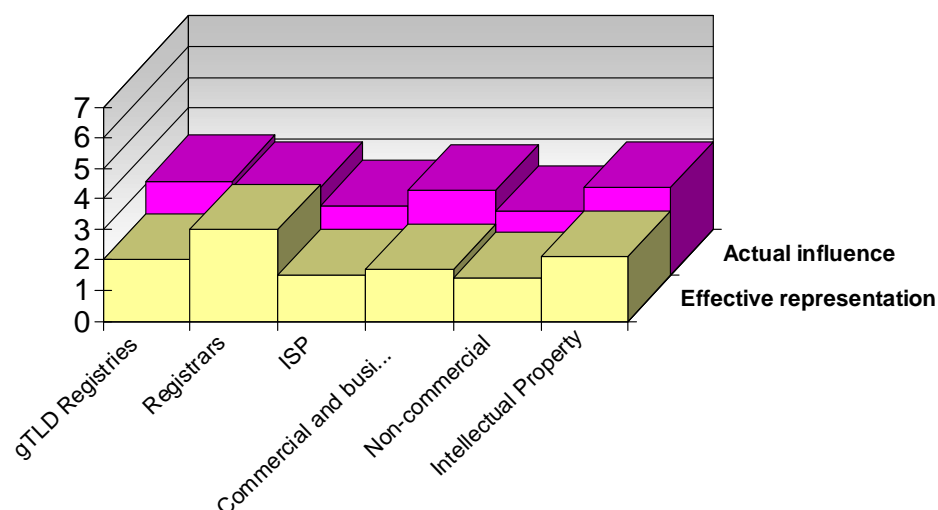
*'It is hard to make policy when interested parties are so involved...There isn't another industry where the incumbents set the pace and the agenda.'*

5a.6 It is interesting to look at how Registrar members viewed the relative quality of representation provided by other Constituencies in the GNSO, and their overall influence. Again it is important to remember that this is perception data, and a significant few of the Registrar respondents revealed that they only participated infrequently in policy development process and in general had relatively little to do with the GNSO process once Constituency statements had been formulated. Nevertheless, the results in Figure 17 below show some interesting, if slightly



predictable perceptions. The most obvious contrast with Figure 12 above showing perceptions from all respondents is that the Registries Constituency is viewed as being much less representative than it is influential. It is seen as the most influential Constituency in fact. The Business and Internet Service Provider Constituencies retain roughly the same scores, showing a representative deficit compared to influence. Registrars however see the Intellectual Property Constituency as much less representative than average overall. These results might be explained by the ongoing controversy between the registrars and the Intellectual Property Constituency over the purpose of WHOIS.

**Figure 17: How the Registrar survey respondents rated the degree of ‘effective representation’ and ‘actual influence’, by Constituency (N = 37)**



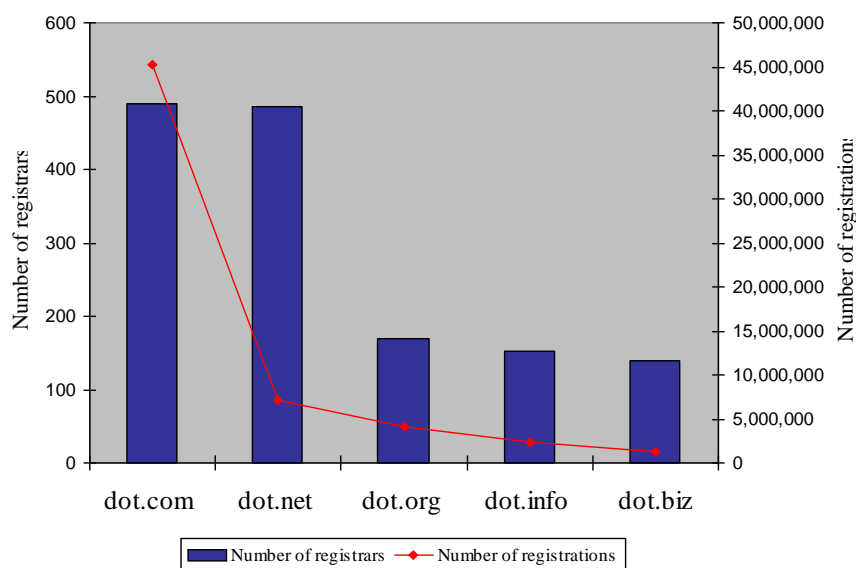
## 5b. GTLD Registry Constituency

5b.1 The Registry Constituency represent the interests of gTLD Registries who are currently under contract with ICANN to provide gTLD Registry services. As of the end of 2005 it had six Registry members representing ‘unsponsored’ gTLDs, by far the largest of which is Verisign, the Registry operator for the dot.com and dot.net domains. Other Registries in this category include the Public Interest Registry (dot.org), NeuLevel, Inc (dot.biz), Affilias (dot.info), Registry Pro (dot.pro), and the

Global Name Registry Ltd (dot.name). Figure 18 below gives an overview of the number of registrations under each of the domains at the end of 2005.

5b.2 The Constituency then has a further seven Registry members representing ‘sponsored’ gTLDs, names that can only be applied for by organizations that are specific to a certain functional or professional area such as educational institutions, aviation industry stakeholders, mobile phone operators and so on. These gTLDs are managed and indeed sponsored by designated bodies with expertise and advocacy relations with the specific range of bodies included under the domain. For example, the sponsoring body for the gTLD dot.museum is the Museum Domain Management Association. This domain can only be applied for by museums, situated anywhere in the world. Sponsored gTLDs are limited to specific and finite population of relevant bodies, and therefore are generally have far fewer registrations than unsponsored domains, which are open to all registrant individuals and organizations. Sponsored domains at the end of 2005 include dot.museum (around 500 registrations), dot.coop (around 6,500 registration), dot.aero (around 4,000 registrations), dot.jobs, dot.mobi, dot.travel, and dot.cat (Catalonia). The Registry has other non-voting members as observers, such as the ICM Registry responsible for the recently rejected dot.xxx application.

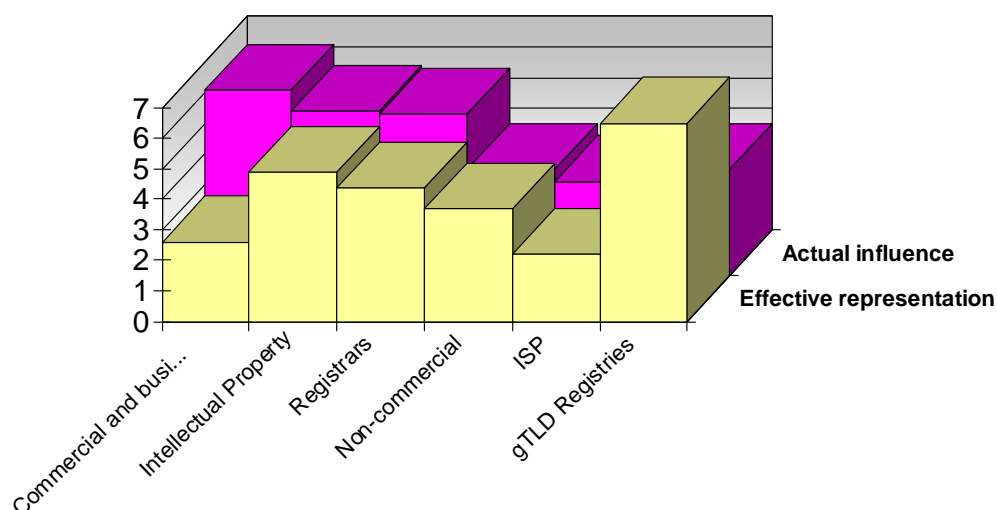
**Figure 18: The largest generic top-level domains by registrations and number of registrars accredited for each**



5b.3 The Registry Constituency has an executive management structure consisting of a Chair, Vice Chair, and a Liaison to the Registrars Constituency. There is a Secretariat responsible for day-to-day operational support such as processing membership applications, collecting fees, and managing the Constituency website. Council members are elected by simple majority vote. All votes other than GNSO Council elections require majority support by unsponsored members with each member having one vote (even Verisign), and majority support by sponsored members again with each members having one vote. Majority support of all members must also prevail according to the following system. If there are N voting members, the member with the largest number of registrations under management will be allocated 10N votes, with next largest 10(N-1) and the next 10(N-2) and so on.

56.4 The Registry Constituency meets via teleconference every other week for around two hours. An agenda is usually prepared 48 hours in advance. The Secretariat prepares minutes from each teleconference that are issued via the Constituency mailing list. Neither minutes nor mailing list submissions are available publicly so we were unable to do tally analysis on the level of activity on this list or check attendance at teleconference meetings. The Constituency publishes positions statements listing how many members were consulted and posting statements contributing to the overall position. For all voting on Constituency positions the procedure outlined in the paragraph above is used.

**Figure 19: How the Registry survey respondents rated the degree of ‘effective representation’ and ‘actual influence’, by Constituency (N = 10)**



***Quote Box 11: On the Registry Constituency***

*‘Verisign could be likened to an 800 pound gorilla in a tea shop...and a surprisingly nice one at that’*

*‘As a smaller Registry, a way of doing things was imposed on us...we pay thousands of dollars to ICANN as an insurance payment that is completely irrelevant to what we are trying to do’*

*‘The Registry Constituency is genuinely representative’*

5b.5 Views on the relative quality of representation and actual level of influence across Constituencies from the perspective of Registry Constituency members show some interesting diversity again. Perhaps most impressive is the near perfect score given by the 10 Registry respondents on the extent of their own effective representation. This near perfect score does however suggest at least some degree of unity and coherence across the members. Perspectives on actual influence of the Registries show the lowest score across all the Constituencies. The opposite perspective is shown for the Business and Commercial Constituency, where again influence is seen as high and effective representation as low. The ISP Constituency is seen as low on both accounts. Solid views are expressed about the Registrars and the IP Constituency, both of whom are seen as relatively effective representatives and pretty influential too.

## **5c. Intellectual Property Constituency**

5c.1 The Intellectual Property (IP) Constituency represents the views and interests of owners of intellectual property worldwide with particular emphasis on trademark, copyright, and related intellectual property rights and their effect and interaction with domain name systems. In the Constituency Bylaws specific mention is made of ensuring the rights of ‘minority views’ within this wider representation activity. The current membership of the Constituency as of the end of 2005 totalled 98, divided up into 20 international representative bodies, 10 national bodies, 24 corporate law firm observers, and 44 individual observers. International members include major representative associations such as the International Trademark Association (INTA), International Association for the Protection of Industrial Property (AIPPI), and the

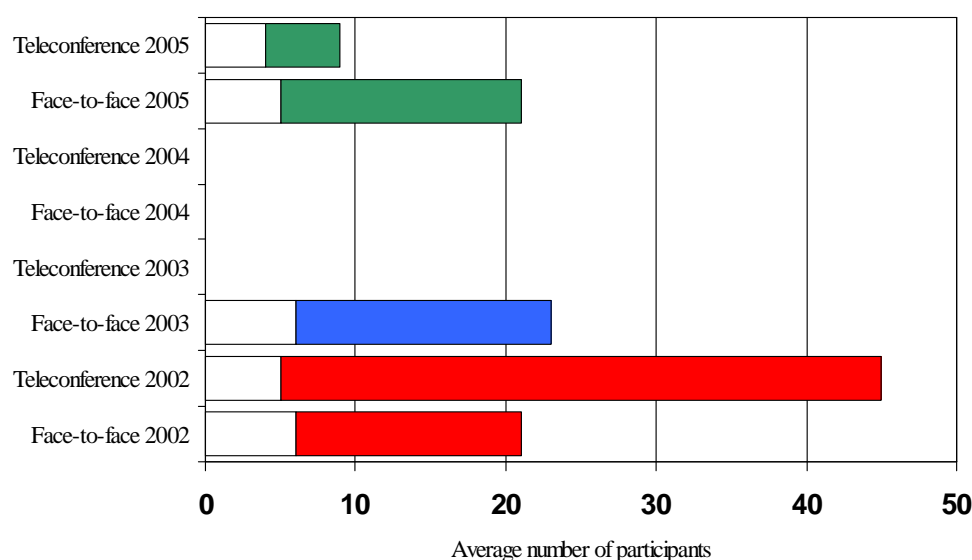
American Intellectual Property Law Association (AIPLA). Amongst these international members there are also more area-specific organizations such the National Music Publishers Association (NMPA), Motion Picture Association of America (MPAA), and the American Society of Composers, Authors and Publishers. The international mix of member organizations is relatively wide, with just over half of the total members from North America, one third from Europe or Asia Pacific, and around one tenth from Latin America or Africa. This breakdown applies roughly to the major international member list as well.

5c.2 Member organizations may designate one representative and up to two alternative representatives from international and national members on the IP Constituency Council. No decisions in the Council may be taken without the representation of at least one quarter of international and national members. Only international and national bodies may vote. Each international member has 3 votes and each national member has 2 votes. Simple majority decisions under this allocation of weighted voting will count in order to decide Constituency positions. The IP Constituency holds at least one face-to-face meeting per year. The Constituency Bylaws say nothing about teleconference meetings. There is a relatively strong executive management structure to the Constituency, including a President, Vice President, Treasurer, a Secretary, plus three further officers. Any officer may not hold a seat for more than three consecutive terms. An IP GNSO Council representative may not hold an IP Constituency seat for more than two successive terms. However in both cases, if no successor is found, the incumbent holds the seat until she can be replaced.

5c.3 The IP Constituency publishes minutes of meetings on its website, however it is not entirely clear whether this list of publications is exhaustive. We analysed all minutes of meetings dating back to 2002 to get a sense of how many members were in attendance, and how attendance has fluctuated year on year. Figure 20 below shows this data for teleconference meetings listed and for face-to-face meetings (details of the number of meetings are given below). Each bar shows the average number of members attending each meeting per year. It is interesting that face-to-face meetings in 2002, 2003 and 2005 have all averaged around 20 participants. Teleconference

meetings have fluctuated more, with only 10 participants in 2005 compared to 40 at one teleconference in 2002. No data is available for 2004.

**Figure 20: Attendance at the Intellectual Property Constituency meetings, by year**



□ Bars show average number of participants, with white indicating core IP Constituency officials

**NOTE:** The IP Constituency meetings recorded on their website show the following totals: **2006** no minutes available; **2005** 5 teleconferences and 3 face-to-face meetings; **2004** no minutes available; **2003** no teleconference and 1 face-to-face meeting; **2002** 1 teleconference and 3 face-to-face meetings.

5c.4 Comparing the individuals and organizations participating in the IP Constituency teleconference and face-to-face meetings since 2002, and the current IP Constituency membership, it is possible to get a relatively reliable overview of the scale and range of organizations actively represented. Figure 21 shows the proportion of current listed members of the IP Constituency (as of end of 2005) that have been present for at least one teleconference or face-to-face meeting since 2002. The pattern shows a high level of active representation amongst large international bodies, with 17 out of 20 having participated in person at least once since 2002. The proportion drops significantly for national members listed, and somewhat inevitably observer members (corporate law firms and individual observers) show around one third of members having been actively represented at a meeting.

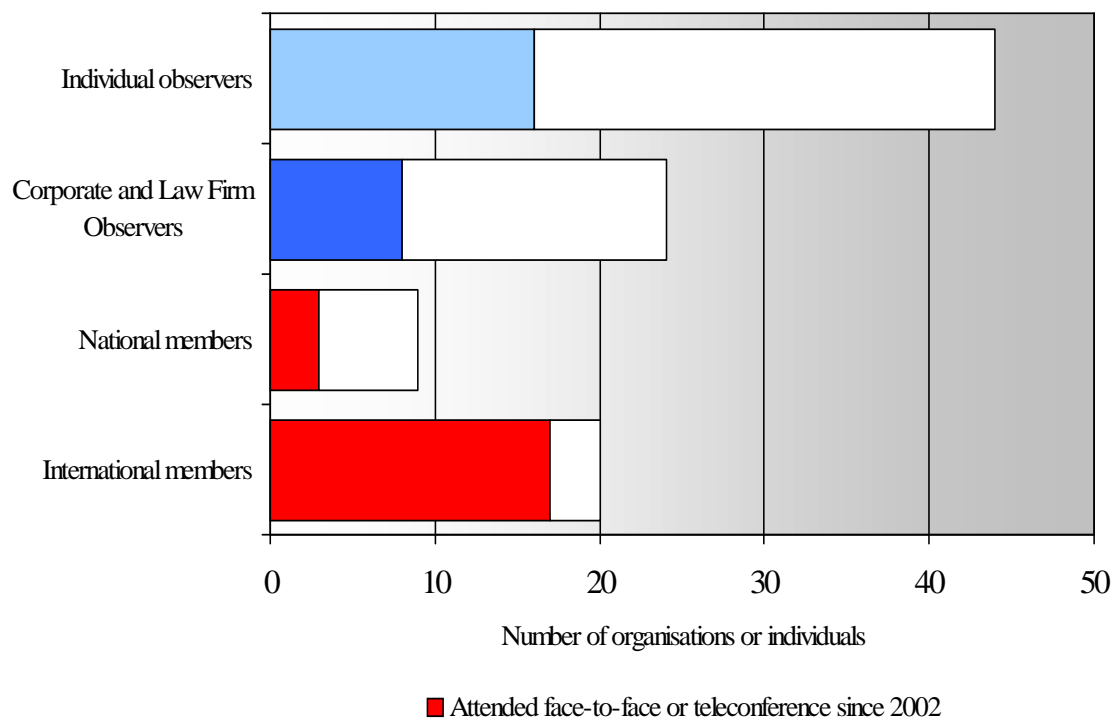
**Quote Box 12: On the IP Constituency**

*'Members of the IPC represent all the premier organizations in the world'*

*'ICP is the biggest anomaly in the Constituency structure – it is completely issue based'*

*'The IP Constituency is the purest form...in that they know what their interest and position is'*

**Figure 21: Proportion of current member and observers to the IP Constituency (in white) who have attended IP Constituency face-to-face or teleconference meetings at least once since 2002 (shown in red or blue)**



5c.5 In order to establish which of these 20 major organizations were most actively represented in IP Constituency meetings, we looked at the number of times that specific individuals had been present at teleconference or face-to-face discussions since 2002 (a total of 13 meetings for which data is available). We created a top 10 list of individuals who had been most active (i.e. attended the most meetings), and looked at which major organizations they were representing. Figure 22 shows that probably the most consistently active representative body has been the International

Trademark Association (INTA) with two individuals in the top 3, a Former President of the Constituency and current Secretary of the Constituency. The Coalition for Online Accountability also figures strongly, and is currently led by the President of the Constituency (members listed below). In general, we find affiliations to major international intellectual property bodies and corporations relatively firmly rooted at the core of the Constituency. It is unfortunate that we were not able to stimulate more response from these member organizations in our online survey.

**Figure 22: The top 10 attendees at IP Constituency meetings and the international and national associations they have represented**

IP Constituency role fulfilled by this individual	Number of meetings this individual has attended between 2002 and 2005 (out of 13)	Major organisation currently or formerly represented by this individual
Current President	12	Coalition for Online Accountability (COA)
Former President	11	International Trademark Association (INTA)
Current Secretary	11	International Trademark Association (INTA)
Former VP	8	International Association for the Protection of industrial Property (AIPPI)
Current GNSO Councillor	6	Association Mexicana para La Proteccion de la Propiedad Industrial (AMPPI)
Current GNSO Councillor	6	Nokia
Former GNSO Councillor	5	Motion Picture Association (MPA)
Member	5	Coalition for Online Accountability (COA)
Current Treasurer	5	Software and Information Industry (SIIA)
Former ICANN Board member	4	Federation Internationale des Conseils en Propriete Industrielle (FICPI)

NOTE: The **Coalition for Online Accountability** consists of representatives from the following organizations: American Society for Composers, Authors and Publishers, Business Software Alliance, Broadcast Music Inc, Motion Picture Association of America, Recording Industry Association of America, Software and Information Industry Association, Time Warner Inc, and Walt Disney Company



## 5d. Business and Commercial Users Constituency

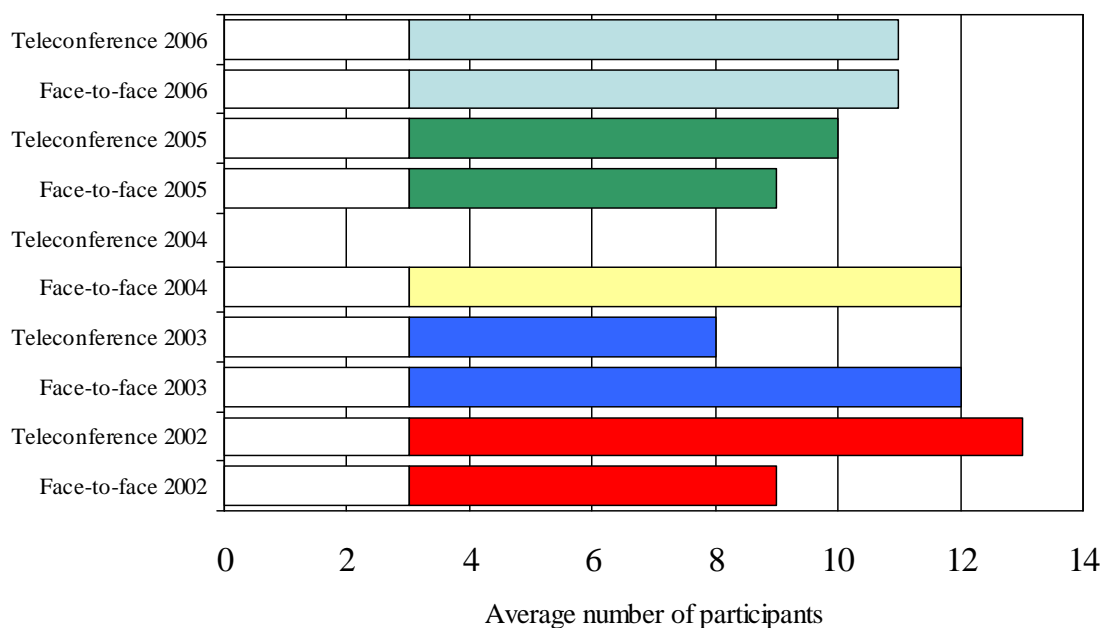
5d.1 The Business and Commercial Users Constituency (BC) represents any legally recognised for-profit entities that have been delegated a domain and that uses the Internet to conduct for-profit business, or any organization such as a trade association representing these entities. At the end of 2005 the BC had around 33 member organizations. There are around 12 representative associated members, with a declared membership of 60,000 companies worldwide in total, around 80 per cent of which are SMEs. This membership group includes very large associative bodies such as the Computing Technology Industry Association (CompTIA), World Information and Technology Service Alliance (WITSA), and national associations such as the Mouvement des Entreprises de France (MEDEF). There are a further 21 named corporations or SMEs ranging from small single-person business consultancies and lobbying enterprises to large and well-known multinational corporations such as Time Warner, Fujitsu Ltd, Nokia, Unilever PLC, Yahoo! Inc, and until recently AT&T. The BC provides the following breakdown: 52 per cent global companies; 18 per cent global associations; 18 per cent associations operating in one ICANN region; and 12 per cent SME.

5d.2 The BC GNSO Council representatives fulfil the role of officers to the Constituency and the function of an executive committee. Unlike all Constituencies reviewed above, there is no separation between executive officer positions such as President or Chair of the Constituency and those of GNSO Council representatives. In the BC Constituency, the same individuals fulfil executive and legislative roles. There is however a professional secretariat responsible for day-to-day administration of the Constituency and its website.

5d.3 The BC meets at least 9 times per year either by teleconference or face-to-face. Minutes and notes of meetings are made available on the website; however Constituency mailing lists are not made public. Constituency positions are initiated by an appointed rapporteur, circulated around members, and if there are no substantively opposing comments received during a 14-day period, the position is deemed approved. A coalition of at least three members may oppose a position, and trigger further discussion (either by email or teleconference), and if the majority of discussion

members support the draft position, the position will be deemed approved. If there is continued disagreement from at least 10 per cent of paid members, the issue will go to a vote of members (presumably one member one vote). Voting on issues appears to follow a simple majority rule, with organizations receiving votes according to its class of membership; Companies or associations spanning more than one ICANN region = 3 votes; Associations spanning one ICANN region = 2 votes; and small enterprises with less than 10 employees and turnover of less than 0.5 million = 1 vote.

**Figure 23: Attendance at Business Constituency meetings, by year**



□ Bars show average number of participants, with white indicating Business Constituency Council representatives

**NOTE:** The Business Constituency meetings recorded on their website show the following totals: 2006 3 teleconference and 1 face-to-face meeting; 2005 4 teleconferences and 2 face-to-face meetings; 2004 2 face-to-face meetings; 2003 1 teleconference and 3 face-to-face meetings; 2002 2 teleconferences and 3 face-to-face meetings.

5d.4 We looked at all minutes of BC Constituency meetings made available on the Constituency website since 2002. We found 24 sets of minutes in total, considerably less than the 9 meetings per year as stated in the GNSO Review Questionnaire response to ICANN staff at the start of 2006 (nevertheless we are aware of administrative resource barriers that might hinder full provision of up-to-date and complete copies of Constituency meeting minutes). In a similar way to the analysis of the IP Constituency meetings above, we looked at the average number of people

attending BC meetings each year, distinguishing between teleconference and face-to-face meetings. Figure 23 above shows a relatively steady attendance of somewhere

***Quote Box 13: On the BC Constituency***

*'It is obvious they don't represent world business...but they are generally representative'*

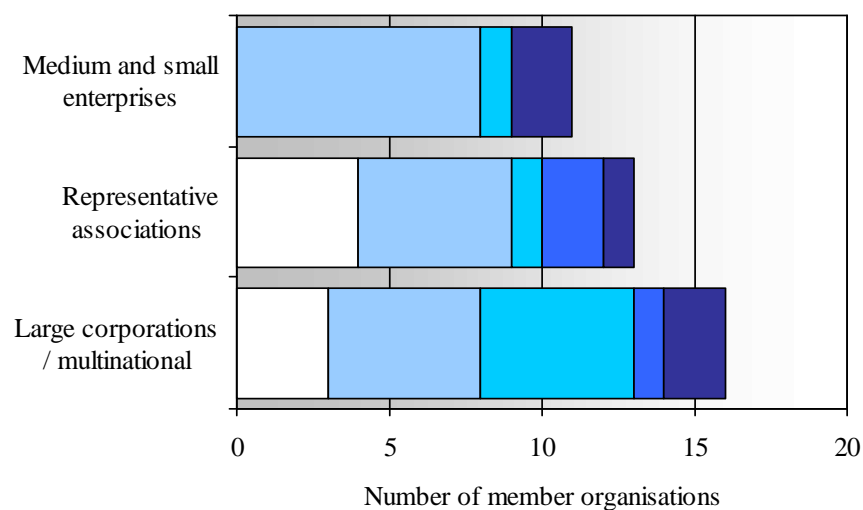
*'Why would individual businesses bother? Why would they care?'*

*'It is very easy to get lost amongst loud voices in the BC'*

*'The BC is run by four or five people'*

5d.4 We looked at the current list of member organizations of the BC Constituency and compared this with minutes data from 24 meetings showing which organizations (i.e. individuals representing organizations) were present. Figure 24 below shows a distribution of attendance across three major types of member organization, medium and small enterprises, representative associations, and large corporations. We have included seven organizations which are no longer members, explaining why the total is 40 rather than 33. Only five organizations show attendance at more than 16 out of 24 meetings (marked dark blue). It is also striking that for each of the three categories at least half of the organizations have only attended five or fewer meetings, and in the case of representative associations and SMEs this proportion is around three quarters. Just under one fifth of large corporations and around one third of representative organizations listed as members have never attended a meeting.

**Figure 24: Number of meetings attended between 2002 and 2006 by BC member organizations**



□ None    ■ 1 to 5 meetings    ■ 6 to 10 meetings    ■ 11 to 15 meetings    ■ 16 meetings or more

**NOTE:** The Business Constituency meetings recorded on their website show the following totals: 2006 3 teleconference and 1 face-to-face meeting; 2005 4 teleconferences and 2 face-to-face meetings; 2004 2 face-to-face meetings; 2003 1 teleconference and 3 face-to-face meetings; 2002 2 teleconferences and 3 face-to-face meetings.

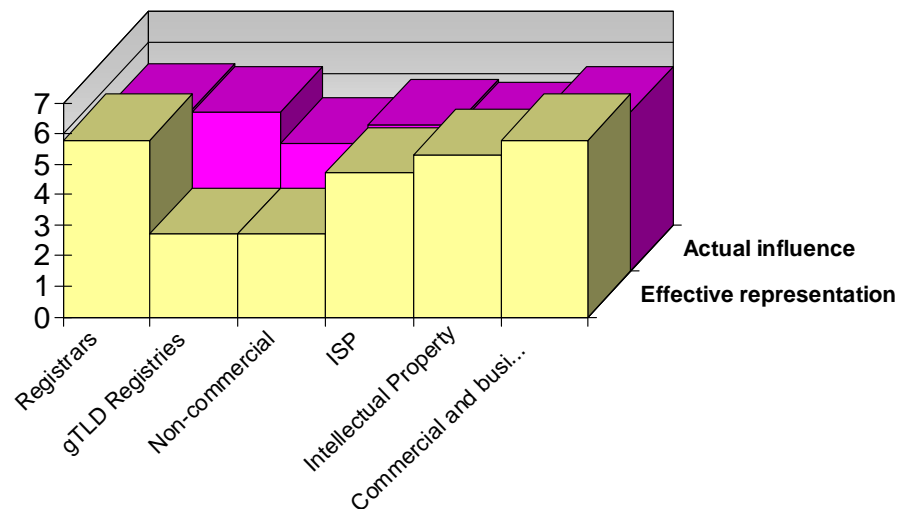
5d.6 Given the range of commercial organizations listed as members of the BC Constituency, we might expect to see this range covered when looking at the Top 12 attendees at BC meetings since 2002 and the organizations that individuals have represented. The table in Figure 25 below takes the Top 12 individuals in terms of their attendance records at the 24 meetings, notes their Constituency position (Column 1), the number of meetings they have attended (Column 2), and the organization they represent. The mix of top ranking represented organizations appears at best a little miscellaneous, not exactly household names, and although one or two big brand names appear, they tend to be towards the bottom of the table and have largely IP based interests.

**Figure 25: The top 12 attendees at BC Constituency meetings and the commercial and membership organizations they have represented**

BC Constituency role fulfilled by this individual	Number of meetings this individual has attended between 2002 and 2005 (out of 24)	Organisation currently or formerly represented by this individual
Current GNSO Councillor	22	<b>AIM</b> (European Brands Association with around 1,800 members)
Current GNSO Councillor	22	<b>mCADE LLC</b> (small consultancy business) previously represented AT&T until 2004
Former GNSO Councillor	18	<b>TelstraClear</b> (Voice and data communications company in New Zealand – subsidiary of Telstra)
Non-member	18	<b>Tralliance</b> (GTLD Registry for dot.travel)
Member	12	<b>News Corporation</b> (Global media services company)
Member	11	<b>Club Informatique des Grandes Entreprises de France</b> (CIGRE)
Member	9	<b>The Darwin Group</b> (no information found)
Member	8	<b>Verizon</b> (Global telecommunications service)
Member	8	<b>Talal Abu-Ghazaleh &amp; Co. Int'l</b> (Leading certified accountants and auditors in the Arab region)
Member	8	<b>Time Warner Inc</b>
Member	6	<b>The Walt Disney Company</b>
Member	6	<b>United States Council for International Business</b>

5d.7 Looking at how BC Constituency members responding to our survey viewed other Constituencies, the quality of their representation, and actual influence over GNSO policy development, we see again in Figure 26 below a somewhat predictable pattern emerging. It is important to remember that these results are based on 7 responses, which would not constitute a statistical sample by any stretch; however averaging scores across the 7 respondents gives at least some indication of views. Perhaps not surprisingly the BC members rate their representation and influence highest across all Constituencies. They view the Registrar Constituency in much the same terms as themselves, scoring highly on both aspects. Unusually though the gTLD Registries are seen as having the largest disparity in terms of low quality of representation and high actual influence. The Non-commercial Constituency score lowest on both counts.

**Figure 26: How the Business constituency survey respondents rated the degree of ‘effective representation’ and ‘actual influence’, by Constituency (N = 7)**



## 5e. Non-Commercial Users Constituency

5e.1 The Non-Commercial Users (NCU) Constituency represents the views and interests of civil society stakeholders who engage in non-commercial speech and activity on the Internet. Membership organizations should be incorporated as a non-commercial entity or operate on a not-for-profit basis, and be the exclusive user of at least one domain name. As of March 2005 it has 40 member organizations spanning a wide range of interests such as education, community organizing, promotion of the arts, public interest policy advocacy, children's welfare, religion, scientific research, human rights and the advancement of the Internet as a global communications system for all segments of society. As one NCUC member put it, ‘the Constituency is defined by the ‘non’ label rather than unifying things [...] except for the UDRP’. The Constituency has an executive structure consisting of a Chairperson, an Executive Committee consisting of a Secretary-Treasurer and five regional representatives. Executive officers may serve no more than three one-year consecutive terms on the Executive Committee. There is also a Policy Committee, co-chaired by the NCU GNSO Council representatives, with responsibility for developing Constituency policy positions for input to the GNSO Council.

5e.2 The membership elects the Chair, the regional representatives, nominates representatives for executive positions, and can initiate and vote on policy work within the Constituency. Organizations with membership of less than 1,000 or less than 200 employees have one vote each. Organizations with more than 1,000 members or 200 employees have two votes. For officer elections, the person with the most votes wins, and then other slots are allocated to the second, third, and so on. New members are asked to pay two years of dues before joining. The current dues are US\$50 for small organizations, and US\$100 for large organizations. Organizations wishing to join from countries with GDP per capita of less than US\$10,000 can apply to the EU for a waiver or reduction in the membership fee. All NCU Constituency meetings are open to the public depending on the Executive Committee's discretion, and mailing lists are available on the NCUC website.

***Quote Box 14: On the NCU Constituency***

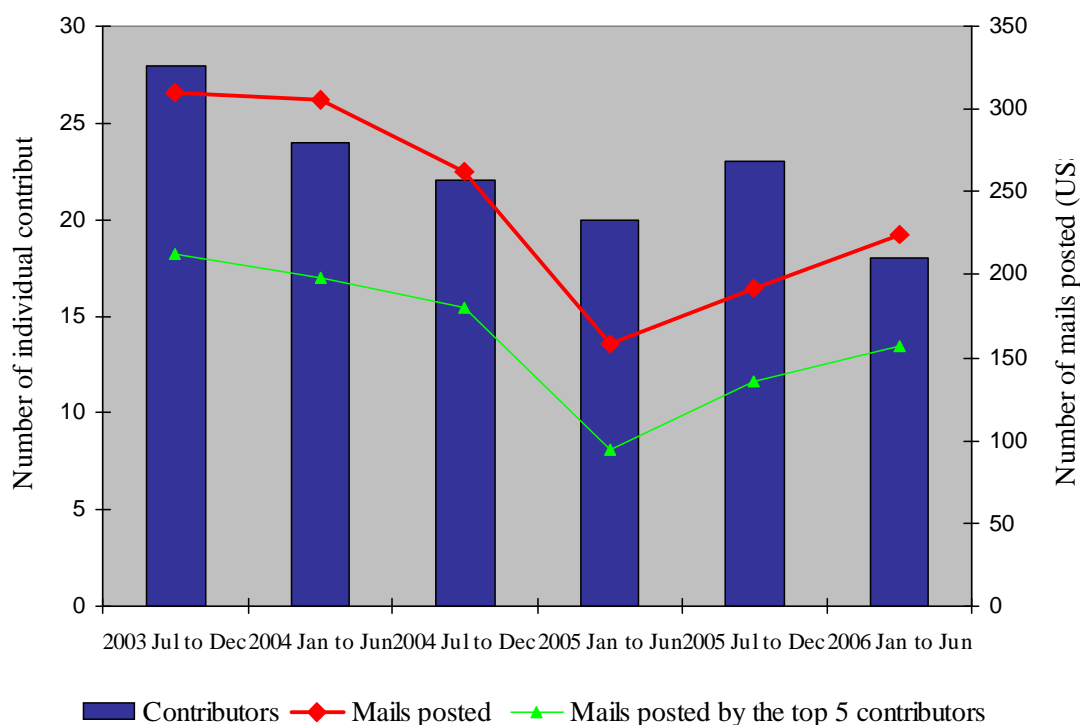
*'The main challenge is how to survive if ICANN don't have an institutional framework to make participation work'*

*'The NCUC is looking very weak...like a spare wheel'*

*'The NCUC interestingly is as it should be...it is probably the most representative Constituency'*

5e.3 Again, a useful indication of the dynamics of a Constituency is the mailing list, and so we carried out some basic tallying of contributions to the list for every half year from June 2003 to June 2006. Figure 27 below shows the number of mails posted to the list has dropped relatively steadily from over 300 to around 200, which averages at least one per day. The number of contributors has followed a relatively stable rate around 25 to 20 (equivalent to just over half the current membership). There are indications, like most of the other Constituencies, that a smallish core of leaders tend to account for a relatively high proportion of the postings, and in this case, we see that the Top 5 (one eighth of the members) contributors account for around two thirds of the postings.

**Figure 27: Analysis of the NCU Constituency mailing from June 2003 to June 2006, showing number of contributions each half year, and number of contributors**



5e.4 Examining the membership activity in more detail in Figure 28 below, it is clear that there are relatively clear leaders in this Constituency. Nevertheless it appears also from looking at the Top 12 contributors that there is good activity in depth. The twelfth highest contributor (3 per cent) has sent around 50 mails to the list over this three year period. The range of member organizations involved is also relatively wide, with good global coverage and an eclectic mix of educational institutions, non-profit issue organizations, civil liberties groups, and even a law firm.

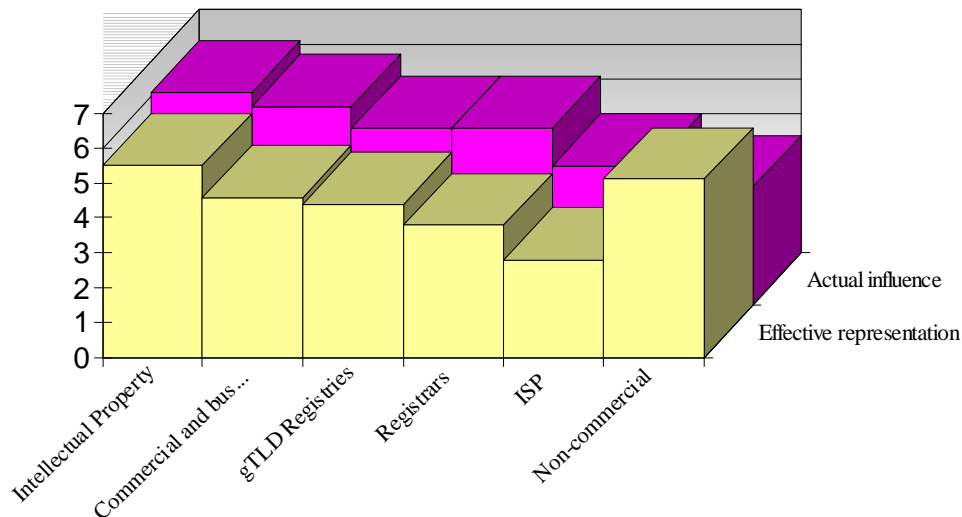


**Figure 28: Top 12 contributors to the NCU Constituency mailing list, their roles within the Constituency, and the organizations they represent**

NCU Constituency position	Percentage of postings to the mailing list (Jun 2003 to May 2006 – total 1,450)	Organisation represented by this individual
Member	27	<b>The Convergence Center</b> (research group based at Syracuse University)
Current Chair	10	<b>Information Network for the Third Sector (RITS)</b> Brazilian ISP for non-profit organizations
Member	8	<b>GLOCOM</b> (International University of Japan)
Member	8	<b>Stichting A.G. van Hamel voor Keltische Studies</b> ( <i>Dutch University</i> )
Member	6	
Member	4	<b>American Civil Liberties Union</b>
Current GNSO Councillor	4	<b>Open Forum for Cambodia</b>
Member	4	<b>Media Access Project</b> (non-profit public interest telecommunications law firm promoting free speech on electronic media)
Member	4	<b>Philippine Network Foundation Inc (PHNET)</b>
Current GNSO Councillor	3	<b>IP Justice</b> (promotes balanced IP law in the digital media)
Member	3	<b>Peace Net Korea</b>
Exec Committee member	3	<b>Free Press</b>

5e.5 Looking at the relative perspectives of NCU Constituency members responding to our online survey, we get a rather straightforward picture of how these members view their own representation against their overall influence on GNSO policy. Perhaps not surprisingly they view themselves as the most effective in terms of representation of their members. The Intellectual Property Constituency is seen as both highly representative and highly influential, perhaps a reflection of the number of free speech and media privacy advocates within the NCU Constituency. It is perhaps also surprising that the NCU Constituency do not view the registration constituencies particularly highly in terms of representative quality, particularly as our interviews with NCU officials suggested that gTLD Registry and Registrar Constituencies were reasonably effective. It might be that NCU Constituency members are comparatively less knowledgeable about other Constituencies than NCU Constituency officials.

**Figure 29: How the NCU Constituency survey respondents rated the degree of ‘effective representation’ and ‘actual influence’, by Constituency (N=11)**



## 5f. Internet Service and Connectivity Providers Constituency

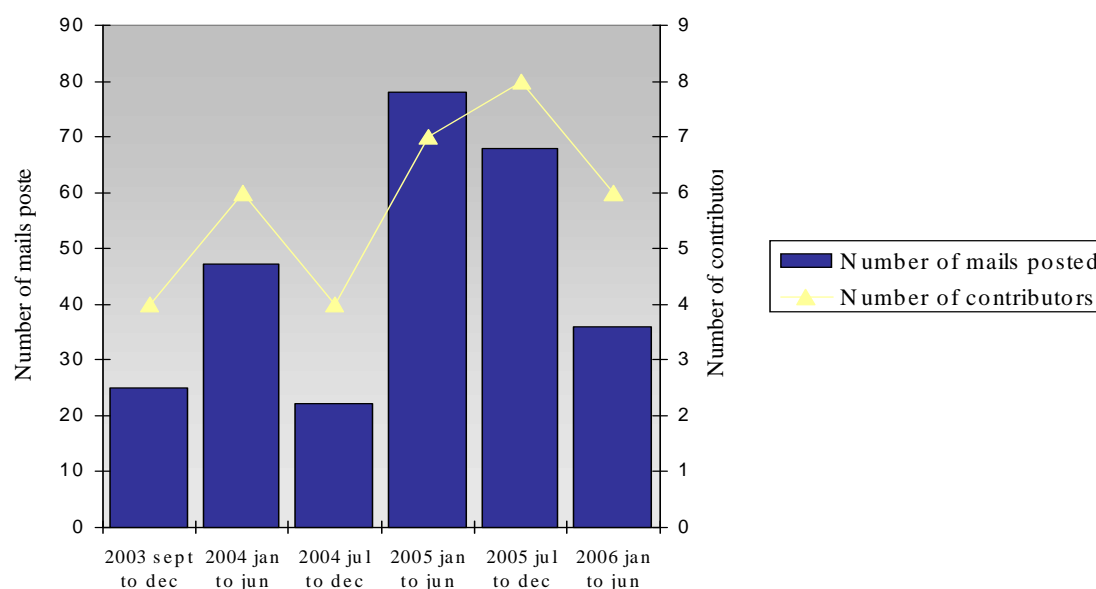
5f.1 The Internet Service and Connectivity Providers (ISP) Constituency represents the views and interests of the Internet Service Provider community worldwide. It has a membership primarily consisting of representative associations, however individual entities can join as long as they are ISPs and, as it states on the web charter, ‘can demonstrate that the activities of the DNSO [sic] commercially affect themselves’. The Constituency has an executive committee to which each member organization designates one representative. This committee elects all representative officers in the Constituency, and votes on substantive policy positions of the Constituency. There is also a management structure consisting of five officers, including a Chairperson. Officers serve terms of 2 years and no more than two consecutive terms (i.e. 4 years in total), while the term of service of the Chairperson can be flexible. The term of office for GNSO Council representatives is 24 months, and no representatives can be elected for more than two successive periods. Constituency meeting take place as the Chairperson considers necessary, or if at least 20 per cent of delegates vote to convene a meeting.

5f.2 At the end of 2005 the ISP Constituency listed 42 member organizations of their website. These organizations represented a relatively strong global spread including:

- Around 20 representative associations or individual corporations in Europe, including British Telecom, Deutsche Telekom, and EuroISPA (Europe's largest association of ISPs);
- 7 North American corporations;
- 6 organizations from Africa, Asia, or Asia-Pacific;
- 2 Latin American ISPs;

We found that around half of the contact details for members listed on the ISP Constituency website were out-of-date, making it very difficult indeed for us to reach named contacts. This reflects a problem with much of the other material on the website being out-of-date, for example the Constituency Charter refers to the former Domain Name Supporting Organization (DNSO) and the Latest News section consists of stories from 2002. The ISP Constituency does not have a Secretariat, hence there will be limitations on how comprehensive the website can be, however details currently available make it extremely hard to identify members, get their contact details, and download other recent documents on Constituency positions.

**Figure 30: ISP Constituency mailing list contributors**



5f.3 Mailing lists for the ISP Constituency are available on the GNSO website, so in order to establish whether representatives from these 42 organizations are playing any kind of active role in the policy development work undertaken by the Constituency,

we carried out a simple tally of mail postings since September 2003. Figure 30 shows the number of postings per half year period, and the number of contributors.

The total number of mails posted since September 2003 was 241, with the lowest amount per half year at 20, and the highest amount per half year at around 80. It is perhaps more interesting that the most contributors in any one half period is only eight. At low periods, this figure drops to four, and on closer inspection of the individuals contributing, we find that it is the three ISP Constituency representatives to the Council, and the ISP Constituency Secretariat. So, over a course of three years, only 4 other members have made postings to the Constituency lists with a total of 40 emails. It is difficult to ascertain to what extent other discussions are taking place within the Constituency, and it may be that the mailing list is only used sporadically or occasionally. We could not however find any other information which suggested more dynamic activity amongst members.

***Quote Box 15: On the ISP Constituency***

*‘ISP is another anachronistic Constituency...it had to be there at the start’*

*‘I can count on one had the number of ISPs who are on the list and are aware of the Council’*

## **6. Views on participation**

6.1 We found a range of reasons why organizations participate in the GNSO. The registration industry of course has a direct business incentive to be active in the GNSO. Major Registries and Registrars will often have paid designated representatives to the GNSO, and this tends to ensure high levels of activity and visible presence. It was generally obvious to most of our interviewees why the Registries and particularly Registrars have tended to be the most responsive to our surveys, and indeed one of the most vocal (and mostly vibrant) Constituencies in our experience at the annual conference in Wellington. Most of our Registrar interviewees made the point that when 90 per cent of ICANN revenue comes from the registration stakeholders, it is hardly surprising that these Constituencies will be active participants in the process.

***Quote Box 16: On participation in the GNSO process***

*‘If there were one hundred thousand members of Constituencies...all participating in elections online...then I would be more inclined to listen to the views of the GNSO’*

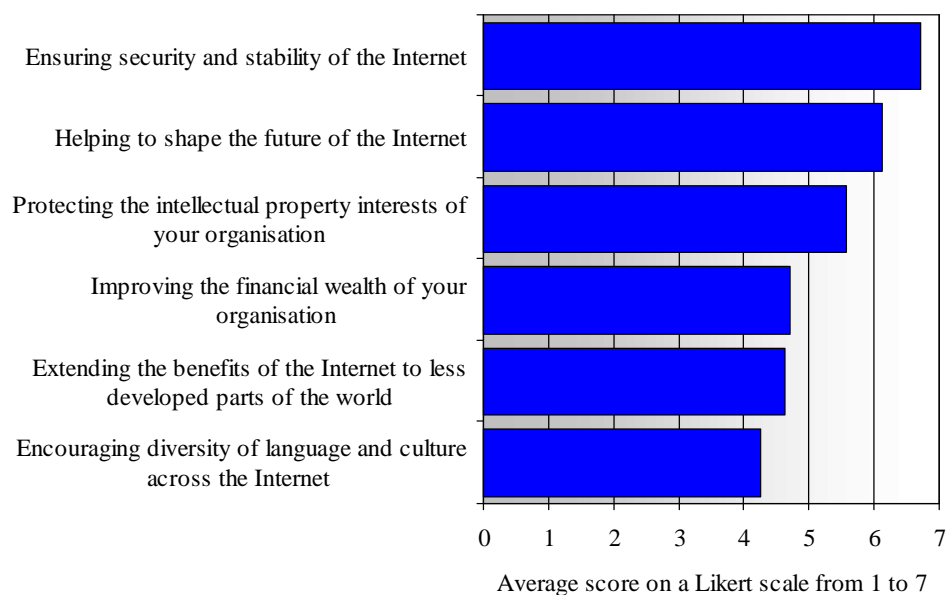
*‘It is just not realistic to stick to these bottom-up consensus goals’*

*‘People do not get up in the morning and want to vote on routing...they want to use the Internet, they don’t want to run it’*

*‘Nobody believes in the GNSO...why would you go there?’*

6.2 As part of our online research our students were asked to identify major organizations across a range of sectors and global regions, find relevant contacts at these organizations, and invite them to visit our website and fill out a survey from a non-member perspective. We contacted over 1,000 organizations. We received 12 responses. Figure 31 below shows how these respondents assessed different benefits of participating in gTLD policy development through ICANN. Despite this disappointing response rate, the top three benefits seemed to correspond quite closely to views that we have heard from our interviews.

**Figure 31: How our non-member survey respondents rated various benefits of participating in policy development for generic top-level domains (gTLDs).**



6.3 Ensuring the stability and security of the Internet scored highest. Our interviews have generated a wide range of comments of varying degrees of candour about how for most organizations, commercial and non-commercial, participation in policy development for generic Top Level Domains is just not a high priority. As one interviewee summed up, ‘ninety nine point nine per cent of organizations don’t care how and why the Internet works, they only care that it works’. Even interviews that we have conducted with organizations currently listed as Constituency members, GNSO and ICANN issues are just not top priority, and for most, struggle to be even third or fourth level priorities.

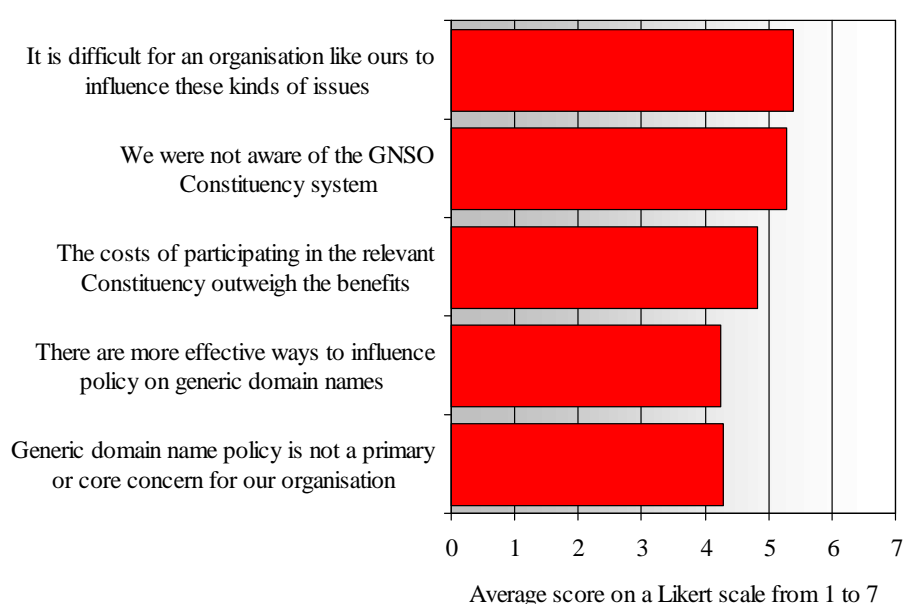
6.4 Another important benefit is protecting intellectual property interests. Much of this research has shown that IP interests have been an sustained presence in much of what the DNSO and the GNSO has done since 1999. Discussions around WHOIS and the introduction of new gTLDs are directly relevant to IP interests, and there is a discernible core of stakeholders both watching over and participating in policy development. Much like the registration stakeholders, the IP Constituency clearly has a direct commercial interest in participating in the GNSO. People have suggested a range of incentives, from generally pace with policy change (or lack of it), influencing policy in a way that will reduce risks for their clients, and as some cynical views have suggested, to ensure continued stability and growth in the market for IP legal representation services.

6.5 It is clear that narrow commercial interests or individual affiliations explain much participation. For example, it is common that individuals involved in the GNSO will be listed as representing an organization, but it may be that the actual link with that organization is pretty tenuous. In other words, it is the individual specifically that is the substantive link and not necessarily the organization at large. Individuals move organizations and as a result bring their new organization into the GNSO process (on paper at least). Other narrow commercial interests can also explain why certain organizations participate. For example, new applicants for sponsored gTLDs are expected to be visibly active in the work of GNSO in the lead up to the application assessment. It is also possible to link large commercial organizations that are members with specific applications for new sponsored gTLDs. We have even been

inclined to suspect a link (only once or twice) between interviewees' enthusiasm to be interviewed and impending elections to official positions across the Constituencies.

6.6 It is interesting that 'helping to shape the future of the Internet' scores second in Figure 31 above. Many of the interviewees we have met over the course of this research, and indeed people we have spoken to at the ICANN Wellington meeting, could be described as issue-based participants. For many, issues such as privacy, education, free speech, global development, drive participation, particularly for the Non-commercial sector and the At Large membership, are reasons for their participation in ICANN. There are also interested participant individuals who were involved in the early days of development of the Internet during the mid-1990s, and who continue to play a part.

**Figure 32: How our non-member survey respondents assessed reasons why they are not currently members of an appropriate GNSO Constituency**



**NOTES ON COMMENTS GIVEN:** 1. There are too many committees and constituencies with overlapping missions. Its confusing in a way. 2. We are not familiar enough to what GSNO does. 3. We are not familiar with your activities. 4. I suggest that the home page of ICANN display more information or publishes information in such a way that we find it accessible and useful. We only knew about ICANN's different committees after we attend few international meetings.

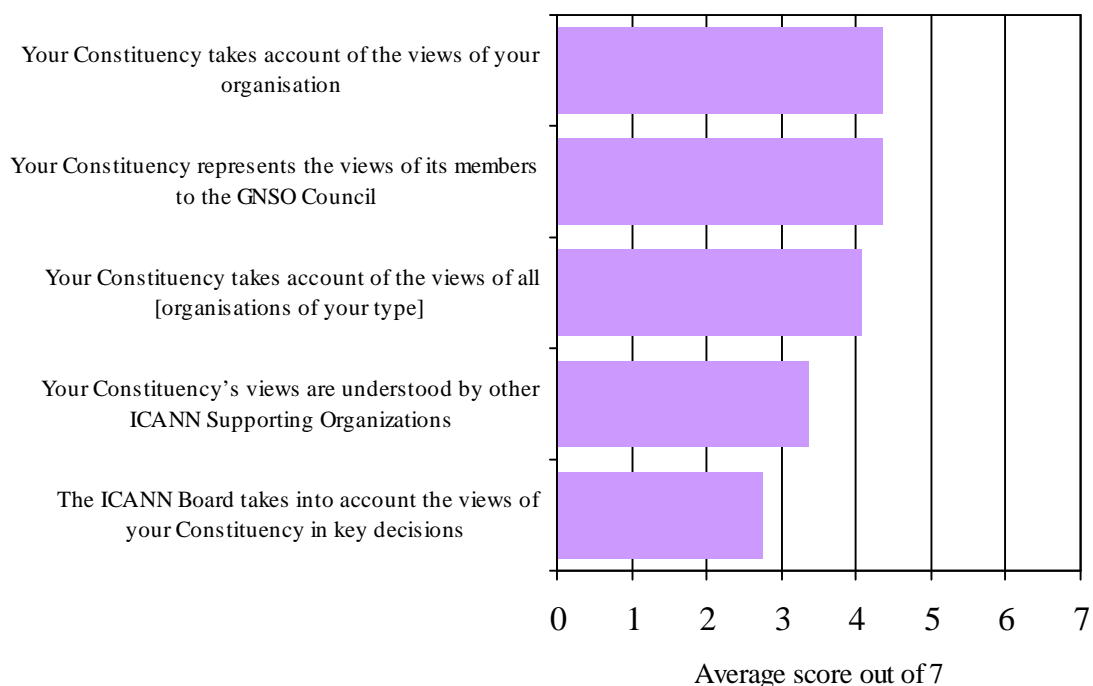
6.7 Figure 32 above suggests some reasons why organizations would not participate in the GNSO. Again the averages are taken from only 12 organizations, so they have almost no statistical significance. However it is interesting that the two most

important (even if very marginally so) were that organizations viewed it difficult to influence these kinds of issues, and that organizations were just not aware of the GNSO Constituency system. Some of the comments in the notes below are telling, particularly given that these organizations are interested enough in Internet governance issues to go to the trouble of getting a password from us and completing a survey.

## 7. Transparency and visibility

7.1 Perhaps a phenomenon that is relatively predictable in the light of the recent decision by the Board on the dot.com renewal agreement is the extent to which Constituency members are relatively supportive of their Constituency structure, the GNSO and its work, but much less positive about the extent to which the ICANN is seen to be responsive to the GNSO as a whole. In our survey we asked Constituency members to score responsiveness and representation of the various parts of the policy development process from the Constituency level up to the Board. It is not necessarily the absolute figure which will be important here (as different people will attach different values for different weights of preference), so what we focus on are the

**Figure 33: How Constituency members viewed representation in the GNSO**





relative scores across each of the five questions. The striking relation is the extent to which members score the Board at an average of 2.6 compared to their Constituency and the Council at 4.3. It is important to note here, as with every item that we present from our survey, that over half of the respondents featured in Figure 33 above are Registrar Constituency members. Given that this Constituency was probably the most vocal on the perceived injustice of the dot.com agreement, it is perhaps not surprising that the Board was strongly criticised on this. Statements from other Constituencies have confirmed a general dissatisfaction with the way in which the Board incorporated the views of the GNSO into this decision. A statement from the BC is a broadly illustrative example: ‘the settlement defines a process for new registry services that is different to the process already agreed through GNSO consensus policy development [...] This sets a bad policy precedent that might constrain the future policy development of the GNSO’.

***Quote Box 17: On the relationship between the GNSO and the Board***

*‘There is inadequate communication between the GNSO and the Board...it is in breach of the ethics of the bylaws’*

*‘Closed meetings, no feedback, and certainly no dialogue on how to modify policy’*

*‘The GNSO has developed an inferiority complex’*

*‘In most firms, the employer doesn’t sit round bitching about performance...that is what happens between the GNSO and the Board’*

*‘There are interests who talk to the Board by back channels...that’s everybody in fact’*

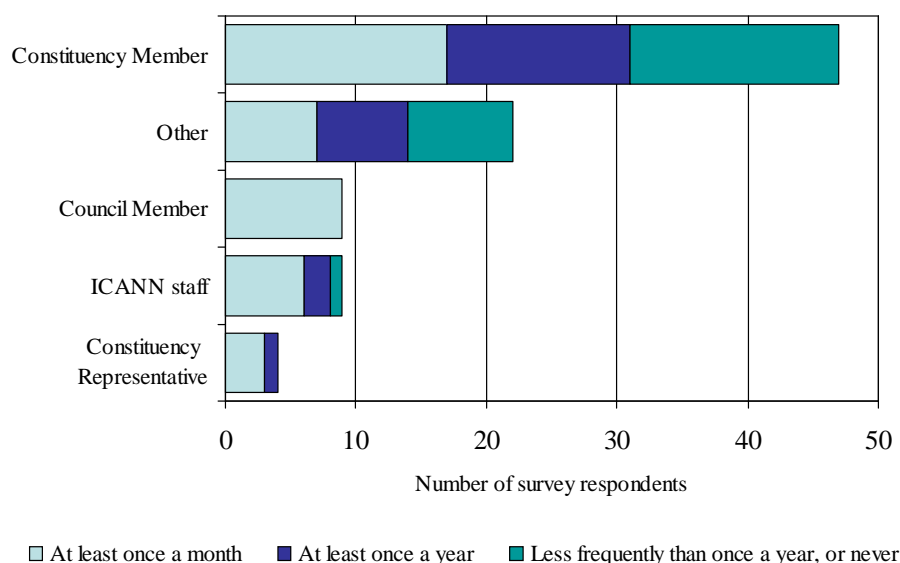
7.2 We have been unable to get data on usage figures of the GNSO website, however most of our interviewees when asked to comment on the site, gave us a range of opinions from ‘it could be improved’ to ‘the site is a chaotic mess [...] there’s plenty of info, but there is very little organization, making it very difficult to find what you are looking for’. People frequently suggested that the site served a very clear purpose as a vital working tool for insiders, and the use of mailing lists and the assiduous approach to posting documents and referencing other materials indeed confirms this view. One Constituency respondent in our survey suggested ‘the GNSO also has

several highly informative mailing lists'. Nevertheless people were also very clear that the site is confusing for newcomers wishing to find out about the GNSO, and labyrinthine in terms of identifying how policy issues have developed over time and how documents relate to this development. Another respondent summed this up:

People get confused about whether they are commenting on a "preliminary report" or a final decision, etc., etc. Only the well-organized, professional lobbying groups can navigate this easily.

We asked our survey respondents to tell us how often they visited the GNSO website. Given the fact that three in every ten Constituency members actually completed a survey, we would expect this group of people (or organizations) to be amongst the most frequent visitors to the site. Figure 34 below however shows a rather depressing picture of usage in that only one third of these more enthusiastic Constituency members visited the site at least once a month. One third confessed to visiting the site less than once a year or never.

**Figure 34: How often our survey respondents visited the GNSO website**



***Quote Box 18: On the GNSO website***

*'It needs sprucing up...it is not good at reaching out to potential members'*

*'The only good thing about the GNSO website is the Google search engine'*

*'There is no one place where you can find a helpful list of things which the GNSO has done'*

*'Difficult to absorb the content...and the thread of discussions'*

*'The website is a disaster...just disgraceful'*

## **8. The GNSO Council**

8.1 Since December 2002 the GNSO Council has been subject to three separate reviews (including ours). In December 2004 the Council voted to approve a self-review document, which gave a detailed summary of the work carried out by the Council over two years, issues of geographical outreach and transparency, policy development process schedules, ICANN staff support to the Council, implementation and compliance, voting, and communication with other ICANN bodies. A very similar looking independent review followed the self-review document. Ironically, the independent review was perhaps less critical than the self-review, evidence of keen self-evaluative culture within the Council at the time. In mid 2005, an internal staff document recorded the extent to which recommendations from these reviews had been progressed. In our Figure 35 below, we take the recommendations from the independent review, and based on discussion with the author Patrick Sharry and our own impressions based on 4 months in-depth research, we have ordered them tentatively in three categories depicting progress in implementation.

**Figure 35: Recommendations from the independent review of the GNSO Council in 2003 and impressions of progress**

Good progress	
2	Building closer links between the GNSO Council and other parts of the ICANN structure
5	Revising and clarifying stages of the Policy Development Process
8 and 9	Put in place high calibre ICANN support staff – ensure effective handover
11	Work with ICANN General Counsel to ensure that the GNSO Council is well briefed legally
12	Ensure the viability of each policy recommendation made to the Board
19	Change the bylaws to incorporate three Constituency representatives
Some progress	
3	Increasing representation in the Council from all ICANN global regions
4	Developing ways in which people from non-English backgrounds can participate more actively
6	Develop a formal process for seeking input from other ICANN organizations on policy work
13	Put in place a compliance function <i>plus</i> graded penalties
15	Build in a review of effectiveness of policies made to the Board
No progress	
7	Using facilitators to build consensus more effectively in the Council
10	Establish a service level agreement between the GNSO Council and ICANN staff
16	Utilize the Ombudsman as a source of systematic analysis of complaints
17 and 18	Explore way in which the Nominating Committee can add value to the Council process
20	Overhaul the GNSO website

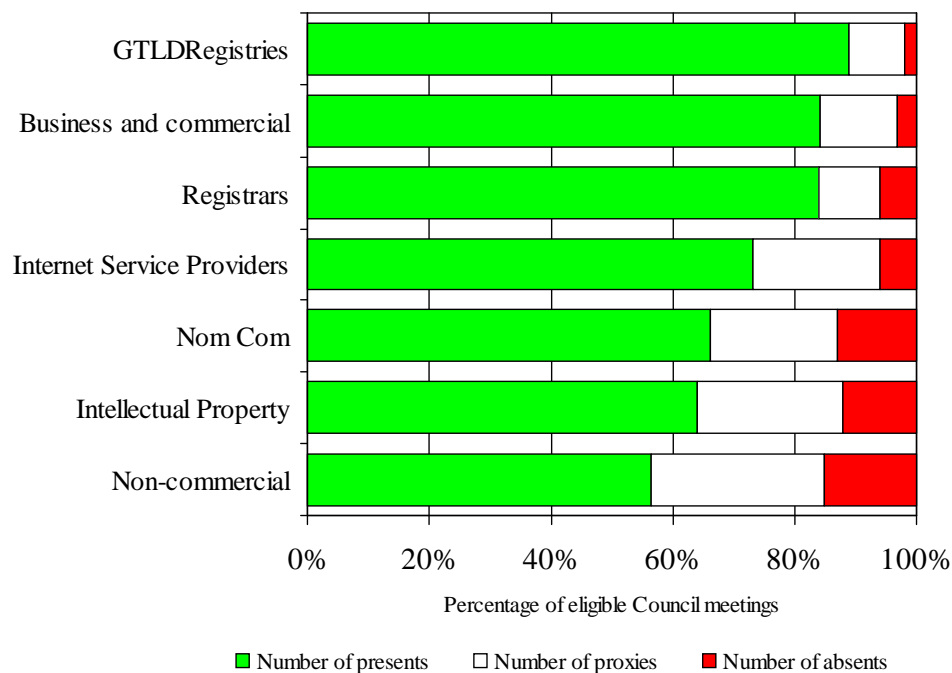
8.2 Our interviews generally confirmed that links between the GNSO Council and other ICANN organizations were getting stronger, particularly due to more formalized and regular meetings such as the joint meeting between the GNSO and the GAC that took place on the first day of the conference in Wellington in March 2006. We found that links between the ALAC and GAC through designated representatives seemed to be working well (although there is still no formalised process for seeking input from other ICANN supporting organizations). A new wave of ICANN policy staff now supports the work of the Council, and one dedicated policy officer is integral to the Council in terms of editing and developing policy documents and carrying out other support. In fact, much of the increase in the proportion of ICANN expenditure allocated to the GNSO over the last two years is taken up by salaries for 2 to 3 new policy staff much of whose time is committed to supporting the GNSO Council. The liaison between ICANN legal staff and the Council is also stronger, and it is fairly common to see General or Deputy General Counsel on Council teleconference calls for specific legal matters that require elucidation. Other more straightforward points

such as changing the ICANN Bylaws to accommodate three Councillors per Constituency have been achieved.

8.3 Our interviews and survey work surfaced a range of issues covered by the 2004 review where either some or little progress has been made. Developing ways in which people from non-English speaking backgrounds can participate effectively in the activity of the Council was a subject that came up relatively frequently. Participating in Council teleconference calls requires a strong command of English (not to mention a degree of self-confidence), and some members suggested to us that the face-to-face meetings were valuable sessions as they offered a chance for more general relationship building. The Council make-up displays a wide range of representatives from different countries, however the requirements to have a strong command of the lingua franca requires that this cultural mix will essentially skew towards English speakers.

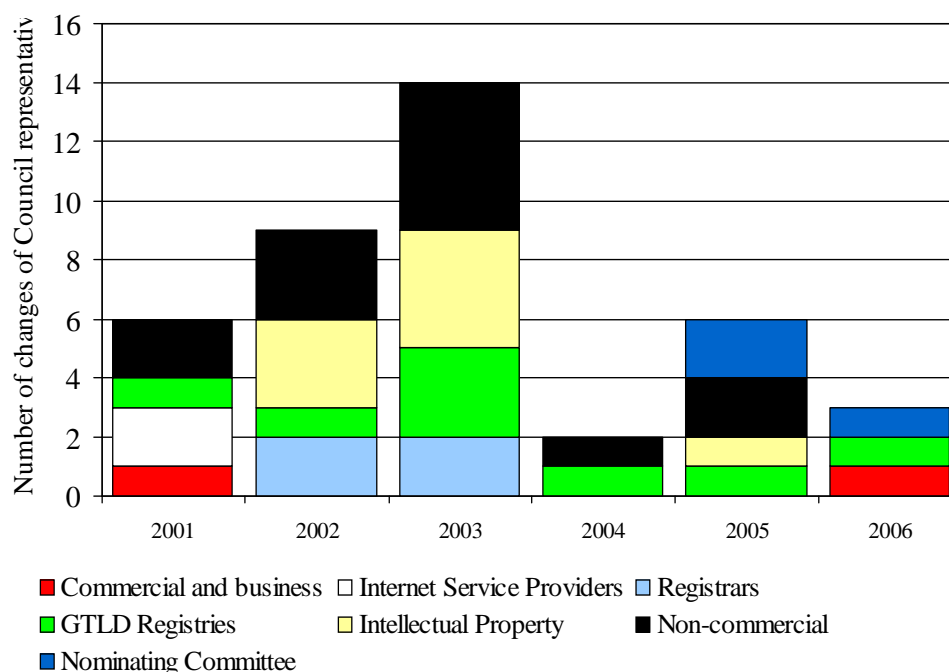
8.4 One positive aspect of the GNSO website is the extent to which meetings and minutes are made readily available to the public on the GNSO mailing list. We analysed minutes of 68 meetings (a total of nearly 123 hours) between January 2002 and April 2006 (roughly 15 meetings per year) in order to get a sense of attendance by Councillors, Councillor ‘churn’, and presence of other related ICANN people. Figure 36 below gives an overview of attendance, absence with proxy, and absence either with or without apology. It is worth noting that the Nominating Committee members were not represented on the Council until June 2003. The gTLD Registries show almost full attendance either in person or by proxy. The BC and the Registrar Constituency follow closely behind. The IP Constituency members and the NCU Constituency members have the least number of presents on teleconference and face-to-face meetings. It is often a barrier to attendance for NCU members who have to find the funds from their own pockets to attend Council meetings in far flung corners of the world. This was undoubtedly a contributing factor to low turnout for this Constituency in Wellington earlier this year.

**Figure 36: Attendance at GNSO Council meetings since 2002, by Constituency**



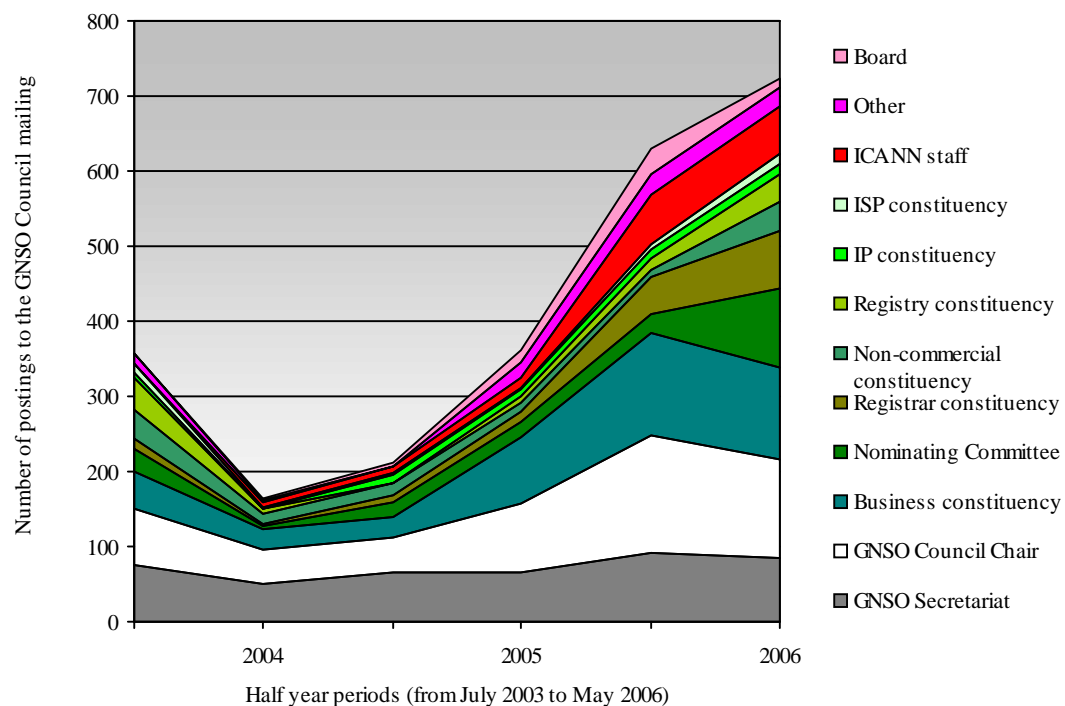
8.5 The GNSO Council section of the ICANN Bylaws (Article 10, Section 3) stipulates that the regular term of each GNSO Council member shall begin at the conclusion of an ICANN annual meeting and shall end at the conclusion of the second ICANN annual meeting thereafter. The regular term of one representative selected by each Constituency begins in an even-numbered year and the regular terms of the other two in an odd-numbered year. This suggests that one should see at least signs of ‘2 and then 1’ turnover of Councillors year on year. This may not always be the case, as Councillors may hold office until a successor has been found, and some Constituencies have their own rules about allowing members to serve consecutive terms (as set out above). Figure 37 below colour codes the number of actual changes in personnel year on year for each Constituency. None of the Constituencies show this regularity of pattern. The gTLD Registries are perhaps most consistent with at least one change each year and three in 2003. The IP and NCU Constituencies show periods of great change during 2002 and 2003, and then settle in later years. The BC Constituency is least prone to change, with only one since the establishment of the GNSO Council and one prior to this in 2001.

**Figure 37: Number of changes of GNSO Council representatives, by year**



8.6 As mentioned above the GNSO Council mailing list is an active and completely open resource both for Councillors and for other interested observers. Obviously there is much communication that takes place ‘off list’, and it is often the case that participants will explicitly (and often legitimately) express a preference for taking a discussion into private. Since June 2003 the Council mailing list has seen over 2,400 postings from a total of 52 different people, at an average of around 69 postings per month. Just under two thirds of all postings have come from GNSO Councillors. The previous two figures above give an indication of the extent to which Councillors from different Constituencies are present at Council meetings and the extent to which new Councillors are introduced into the community. Figure 38 below shows the proportion of list postings coming from different Constituencies, broken down by half year periods. It is clear from this data that the Council Chair has played a consistently active role in leading discussions as one might expect. By far the most vocal of Constituencies however has been the BC Constituency, responsible for around 18 per cent of all postings. It is interesting that in the first half of 2006, the Nominating Committee members have greatly increased their voice, as to a certain extent have the Registrar Constituency.

**Figure 38: Postings made to the GNSO Council mailing list by type of contributor, by periods of 6 months**



8.7 A further trend worth noticing has been the increase in participation in Council activity by ICANN staffers and, to a certain extent, representatives from other ICANN organizations. As noted above, a new wave of ICANN policy staff supporting the Council has taken place during the last 18 months, and this is clearly visible in the previous figure (shown in red). As our interviews have confirmed, this reflects not only a relative increase in ICANN staff involved in substantive development of policy development documentation, but also perhaps an increasing need to have other expertise and oversight involved in Council discussion. Board members elected by the Council have also shown a small but visible presence on the mailing list, with a peak around the middle of 2005, presumably to do with decisions around the renewal of the dot.com agreement amongst other things.

***Quote Box 19: On the relationship between the Council and ICANN staff***

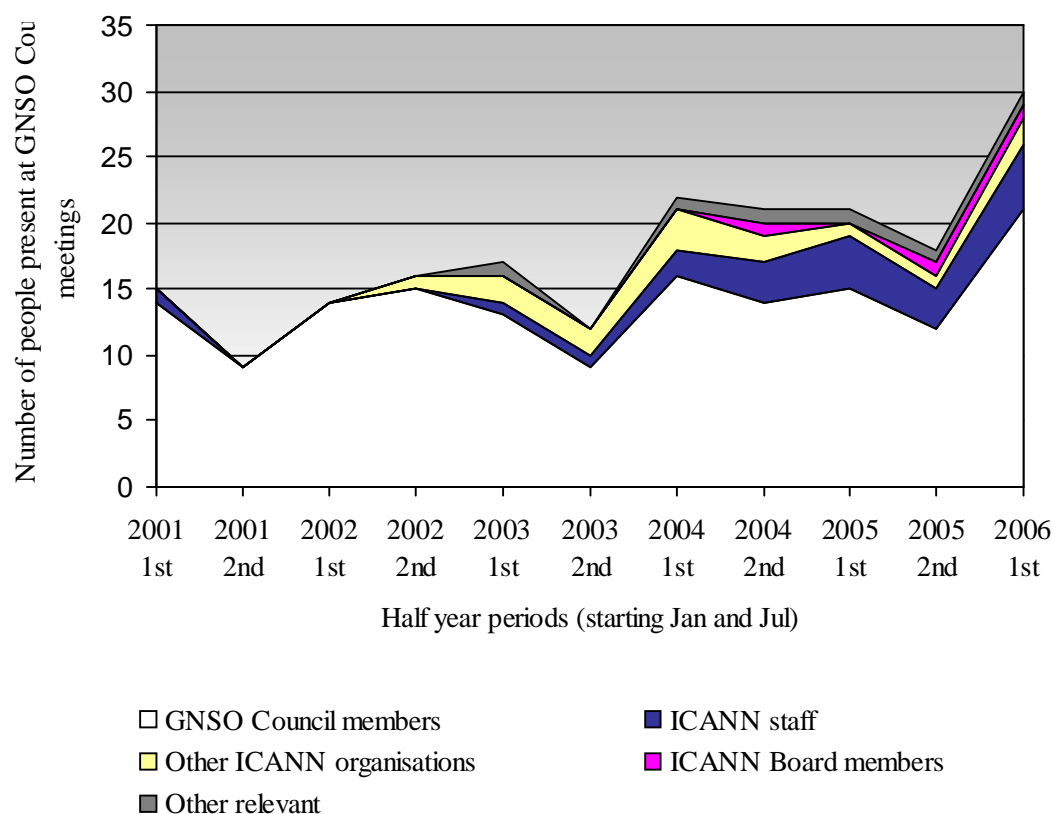
*'You need experienced senior staff to train juniors...ICANN employ too few staff with too little experience'*

*'It has been difficult to work with these policy staff...in theory it is a very valuable role'*

*'Staff members do not always get treated fairly by Council members...Councillors often to behave as if they own the staff'*



**Figure 39: Attendance at GNSO Council meetings by type of attendee, by year**



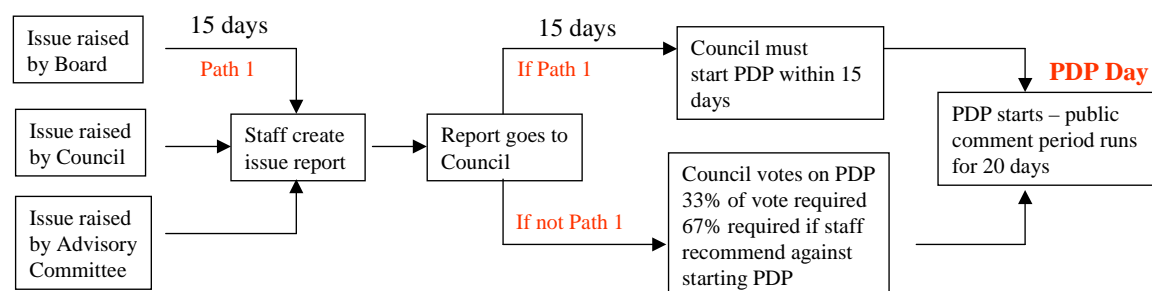
8.8 Looking again at the data from attendance at Council teleconference and face-to-face meetings since 2001, the increase in the number of ICANN staff and other representatives is clearly noticeable (Figure 39). The first half of 2006 shows a jump in the average number of people present on calls (including three LSE researchers some time in March). These calls have averaged around 10 extra people over and above the regular Council members. This may be largely to do with the new policy development process on the introduction of new gTLDs, a process which is being run under relatively new executive procedures involving editorial and ‘leverage’ work by these core ICANN policy staff. Also a new PDP on amendments to existing contractual conditions of gTLD Registry services has sparked some initial controversy over scope, and has required in-depth briefing from General Counsel and his staff. A further interesting detail is that the ‘Other ICANN organizations’ category includes the country code community (amongst others), which after December 2002 left the Names Council and established its own structures. Country code representatives, as well as liaisons from the ALAC and the GAC make up this visible segment of participants (shown in yellow). Many of our interviewees suggested that as

Internationalized Domain Names (IDNs) become more of a policy priority, these other participants may well increase in number in relation to regular Council members.

## 9. Policy Development Process

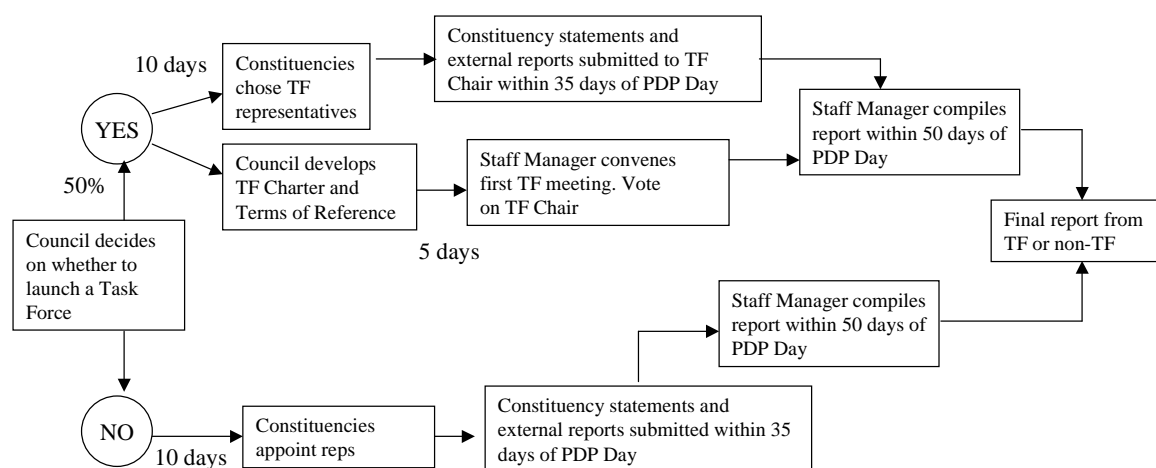
9.1 The Policy Development Process (PDP) sets out the rules and timelines for how the GNSO Council develops its policy positions. Figures 40a to 40c attempt to convey the intricacies of the PDP in crude algorithmic form, detailing the necessary steps (in three manageable chunks) from initial raising of a new issue through to the GNSO vote to pass policy recommendations to the ICANN Board. The emphasis is on tightly stipulated time periods, which peculiarly are defined at the micro-level in the ICANN Bylaws (Annex A). These are indicated where relevant in the three Figures below. The PDP starts with the ICANN Board, the Council (with a vote of at least 25 per cent) or an Advisory Committee raising a policy issue for development. This triggers a staff report (including advice from General Counsel on scope and other legal matters), which goes to the Council for review. If the ICANN Board originally surfaced the issue (denoted by Path 1), the Council has no choice but to begin the PDP. Otherwise the Council requires 33 per cent support to begin the PDP (or 67 per cent if staff have recommended against it). The day on which the PDP starts (labelled ‘PDP Day’) acts as the milestone for all future time schedules. The first public comment period runs from PDP Day for 20 days. **This part of the process is in theory 30 days** (plus 20 days for public comment).

**Figure 40a: An overview of the initial stages of the Policy Development Process (PDP)**



9.2 At PDP Day the Council must decide on whether to launch a Task Force to carry out the main policy development work or whether to use ICANN policy staff to develop the report, as it is known ‘a committee of the whole’. ICANN staff suggested to us that Task Forces were generally used for narrower, more focused pieces of work, and the committee of the whole approach for wider and more expansive policy work. The three WHOIS Task Forces in 2004 may illustrate focused pieces of work around specific issues. However it is hard to see how the most recent combined Task Force 123 equates to this rationale.

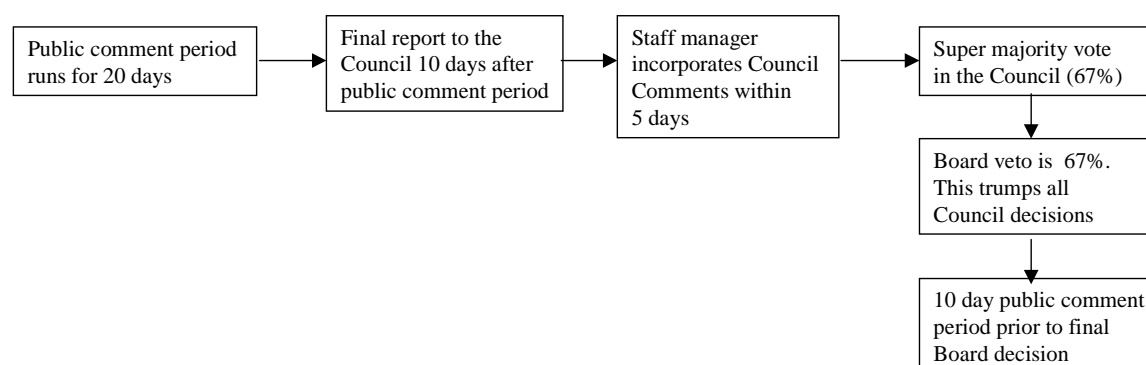
**Figure 40b: An overview of the Task Force stage of the Policy Development Process (PDP)**



9.3 Figure 40b shows the alternative Task Force or non-Task Force routes. The Council requires a majority of at least 50 per cent to launch a Task Force. Once decided, the Council must develop a Charter and Terms of Reference, while Constituencies are asked to nominate Task Force members. Constituencies may nominate any appropriate person to a Task Force, nevertheless data presented below shows that most Task Forces have consisted of either Council members or Constituency executive officials. The staff manager convenes the first meeting, and a Chair is voted in. Constituency statements must be submitted to the Chair within 35 days of PDP Day, and the Chair must submit a report within 50 days of PDP Day. The committee of the whole process is managed primarily by ICANN staff, who themselves are responsible for writing the final report. **Either way this part of the process is in theory 50 days (from PDP Day).**

9.4 The final stage of the PDP involves a second public comment period running from finalisation of the report, and then the submission of the updated report to the Council within 10 days of the end of the public comment period. The staff manager incorporates the views of the Council into the report, and then a vote is taken in the Council. A super-majority vote (66 per cent) is required. The report is passed to the Board for agreement and adoption. If the Council has reached super-majority, the Board may only veto policy recommendations with a vote of 66 per cent or above. **This part of the process is in theory around 50 to 60 sixty days** (depending on Board meetings scheduling).

**Figure 40c: An overview of the final stage of the Policy Development Process (PDP)**



9.5 As a means of getting a broad impression of stakeholders' views of the PDP, we included a question in our survey asking people to score different aspects of the process on a Likert scale from 1 to 7. We listed eight distinct (but not exhaustive) components of the PDP as shown in Figure 41 below. Again it is the relative scores across all eight aspects that give valuable information about how people view strengths and weaknesses. We counted the number of times factors ranked highest or joint highest, and the number of times they ranks lowest or joint lowest, and took the net score. Generally our survey respondents thought that the main strengths of the PDP were delivering practicable recommendations to the Board, making good use of policy support, and picking the right issues (whatever they may be). They were less enthusiastic however about scoping work appropriately, ensuring a wide range of views, and sticking to agreed time lines. We explore these issues further below.

***Quote Box 20: On the PDP***

*‘It doesn’t take much to start a PDP’*

*‘Protocol is often used as an excuse for lack of production...to slow things down’*

*‘No PDP has been completed on time so far’*

*‘It is all about process management...not management by objective’*

**Figure 41: How our survey respondents viewed different aspects of the PDP**

	<b>Ranked highest</b>	<b>Ranked lowest</b>	<b>Net rank</b>
Delivering practicable recommendations to the ICANN Board	24	11	13
Making the best use of policy support resources	22	12	10
Picking the right issues	20	16	4
Scoping policy work appropriately	14	16	-2
Identifying issues early enough	15	20	-5
Ensuring that the PDP incorporates the widest practicable range of views	15	21	-6
Making use of external expertise and research	20	30	-10
Sticking to agreed time schedules	11	25	-14

9.6 The issue of such prescribed timelines has been an issue for previous reviews of the GNSO (see above), and the general consensus of opinion is that the PDP takes longer. As one survey respondent put it ‘the Council does tend to keep to time schedules agreed by the members, but does not keep to the timelines in the Bylaws’. Other interviewees have suggested that given the volunteer, part time, and consensual nature of the Council, it is inevitable that the PDP will overrun. At a more general level, a good number of interviewees implied that there was indeed a general tendency, as (one put it ‘a kind of fixation’) to couch process and policy output in terms of definite time periods of the kind seen in the PDP. This was often not helpful or realistic. One illustration of this referred to specific policy recommendations adopted by the Board as a result of the new registry services PDP, which called for

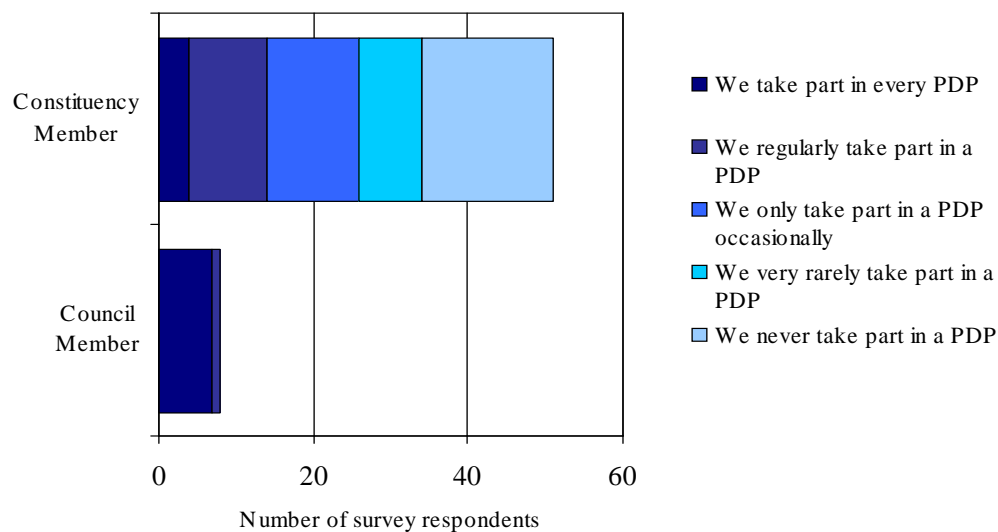
national government competition authorities to provide advice within 45 days. This interviewee reflected on whether any national governments (let alone their competition authorities) had actually been consulted about this recommendation as in his view ‘no government competition authority does anything in 45 days!’

9.7 Some people suggested that one possible affect of this kind of micro-management is that the process becomes inward-looking, particularly as the need to meet timelines is prioritised over work to get a wide range of views from their members. One of the more pessimistic comments we received characterised the process as follows:

If the time period for discussion is 60 days, not one single document will be made in the first 58 days [...] then someone generates a one-page statement, a few minor edits are made, no vote is taken [...] and that constitutes a Constituency statement.

We looked at our survey responses for some kind of indication of whether this kind of pessimism on the extent of participation in the PDP might be justified. To what extent do members of Constituencies feel that they are actively participating in policy development work? Again we remind readers of the limited response we have had in this survey. Nevertheless from this population, proven to be amongst the more enthusiastic participants, there are signs that actual participation is extremely limited. Figure 42 below shows the responses from just over 50 Constituency member organizations on the question of how often they participate in a PDP. Just fewer than 50 per cent of respondents said that they had either never participated or only participated very rarely in a PDP. Not surprisingly, almost all organizations represented by Councillors said that they participated in every PDP.

**Figure 42: How often Constituency members and Councillors participate in a Policy Development Process**

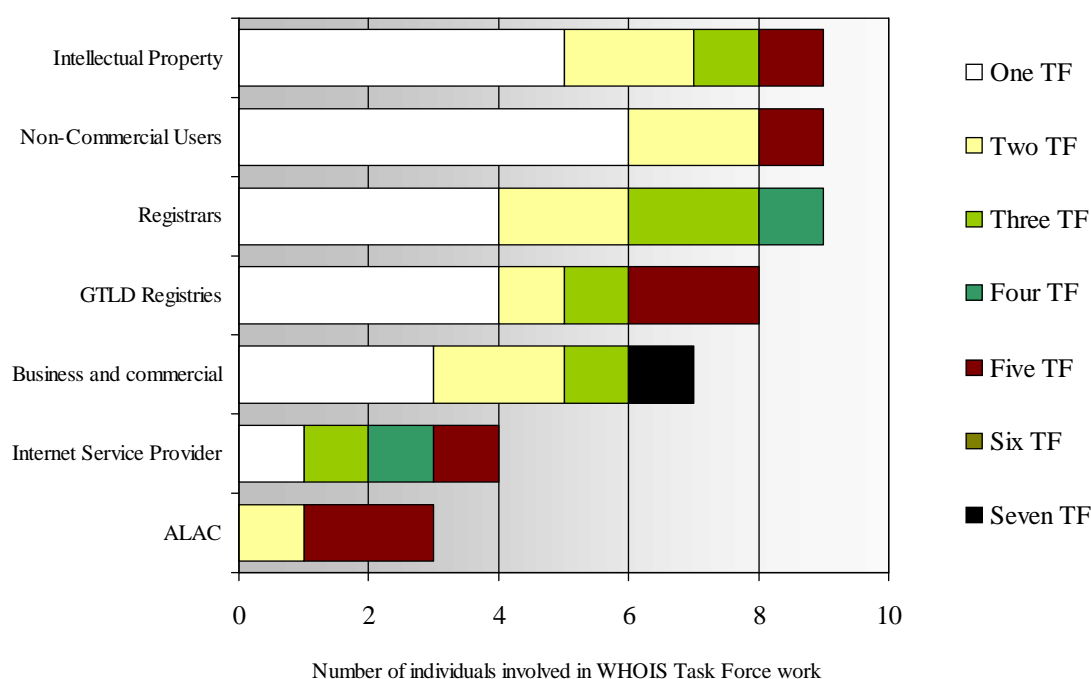


9.8 We encountered a range of views about the diversity and mix of participation involved in policy development work. Some of our interviewees suggested that a major weakness is that the same individuals take part in many PDPs, and this limits the diversity of views and can encourage inward-looking and self-affirming policy outcomes. As one interviewee suggested, ‘this often produces results that were desired by involved individuals rather than their Constituencies as a whole’. We heard similar iteration around this theme, where the impression was that the same people had succeeded in influencing ongoing rounds of policy development to their own ends. Others tended to be more sanguine about the participation process, suggesting that in a well-functioning GNSO the right people should be in the process already through the Constituency system and that the need for supplementary external expertise should therefore be limited.

9.9 We analysed the mix of participants involved in the six WHOIS Task Forces and the Privacy Steering Group (as shown in Figure 8 above) to get a sense of who is taking part and whether there is sufficient turnover and renewal of participants. We looked at 122 representative seats across these seven committees, and found that roughly two-fifths were GNSO Council members, and three-fifths representatives from the Constituency executive structures and membership. Figure 43 gives an overview of the number of representatives that each Constituency has had involved in

WHOIS Task Force work, and the number of times each representative has served across the seven different TF/groups. Given that Task Forces have merged twice (as shown in previous Figure 8), we reckon that participation in 3 Task Force would be an average level of involvement.

**Figure 43: Analysis of individuals taking part in WHOIS Task Forces, by Constituency**



9.10 In terms of numbers of the individuals representing each Constituency on the Task Forces and Steering Group, the IP, NCU and Registrars have 9 each, closely followed by gTLD Registries. When calculating the total number of representative seats held by each Constituency however (i.e. number of individuals  $\times$  number of groups they have served on), we find that Registries and Registrars both have 19 seats, BC and IP have 17 each, with NCU at 15 and ISP at 13. This may confirm the view that those individuals who have a direct business incentive to participate will inevitably be better represented. The NCU case is interesting as this Constituency shows a high degree of diversity in terms of getting different faces involved, but fills fewer seats on Task Forces. This may be simply to do with limited time and resources within this Constituency given that representatives are generally not financially subsidised. The BC is the only Constituency which has a member who has been



involved in every WHOIS group. The ISP Constituency is the only one with fewer individuals (4) than groups (7).

***Quote Box 21: On Task Forces***

*‘Volunteers are disinclined to write policy...progress on Task Forces is constrained by the fact that policy writing has to be done’*

*‘It is all the same people...you never see any new faces’*

9.11 One opportunity for infusing the PDP with comments and views external to the Council and Constituencies is the invitation for public comment. As the Figures above show, there are generally two periods of public comment in each PDP, one just after PDP Day and the other after publication of the final report. In order to gauge the strength and diversity of this comment, we carried out some basic analysis of public comments received on six separate PDPs, in terms of the origin of these comments, the number, and the total word count (as some indication of comprehensiveness). Figure 44 below shows that by far the most popular public comment session was the original Uniform Domain Name Resolution (UDRP) managed by Working Group A of the DNSO in 1999. The bulk of these comments came from interests broadly representing the domain name holders (shown by DNH in the table), who felt that they had not had adequate access to the development of the policy, which took place under the responsibility of the World Intellectual Property Organization (WIPO), and that it should be reviewed within the structures of the Names Council under the DNSO.

**Figure 44: How respondents scored different aspects of the Policy Development Process in our survey**

	The main broad groupings or categorizations for each public comment submitted						
	Detailed	DNH	IP / Business	Registry	Registrar	Spam	TOTAL
UDRP (1999)	16,200 29	36,830 61	6,000 15			20 1	59,050 106
WHOIS 1 (2004)	7,530 9	3,880 10	18,100 13			200 1	29,710 33
WHOIS 2 (2004)	4,590 4	4,780 5	17,150 10				26,520 19
WHOIS 3 (2004)	7,440 9	11,200 8	16,230 10				34,870 27
New Registry Services (2004)	220 2		1,290 2	750 1	400 2	815 4	3,475 11
New gTLD (2006)	17,440 29	280 2	4,000 5	3,050 1	3,130 2	2,460 13	30,380 52
TOTAL	53,420 82	56,970 86	62,770 65	3,800 2	3,430 4	3,495 19	183,885 258

**Note:** We analysed each public comment and based on the content and the person submitting the comment, we tried to give a broad categorization to show roughly how public comments stacked up. **‘Detailed’** comments were not necessarily partisan to any one grouping and generally sent from individuals. We use this as a default category for comments which do not fall into other groupings. **DNH** stands for Domain Name Holders, and includes comments from this general perspective. **IP/Business** includes all comments from interests representing large business or intellectual property organizations. **Registries** and **Registrars** include comments from known representatives of these registration industry stakeholders. This is of course a rough categorisation.

9.12 Since the original UDRP public comment process there has not been an equivalent level of response for any public comment processes held. It is interesting that looking down the list of contributors for each of the three WHOIS public comments sessions, it is possible to pick the same names and indeed organizations, many of which are either Constituency members, executive officers, or representatives to the Council. A general impression of these data is that the public comments periods have primarily been an opportunity for Constituencies to find a way of reiterating the same positions (or elaborating on them) that have been made through the Constituency statement component of the process. The PDP of new registry services received a paltry eleven comments, a good number of which were from Registrar Constituency members. The PDP on new gTLDs has revived the public comment process to some extent, at least in terms of numbers of contributors. It has still only received 52 contributions compared to over one hundred for the

original UDRP, nevertheless it is the only PDP listed which has received comments from all groupings of Constituents, illustrating a relatively wide relevance across all GNSO Constituencies.

9.13 Our interviewees and survey respondents raised the issue of scope in terms of what the Council should be launching PDPs on, and what it should not. This effectively raises the question of what counts as policy. Some of our interviewees suggested that the scope of the GNSO should be a narrow one limited largely to policy issues relating directly to technical and management aspects of the DNS. As one interviewee pointed out ‘we should not attempt to jam all consideration of all issues into the GNSO [...] The Board must recognize that policy recommendations and analysis can and should come from outside of the GNSO and be prepared for narrow recommendations to come from the GNSO’. Other comments along these lines suggested that the Council has a tendency to get involved in what are effectively contractual issues between providers and ICANN. The problem from this point of view is that ‘there is no limitation on scope [...] and issues that the Council deals with are largely those that its members have business or political reasons to consider’.

9.14 Others suggested that initiation of PDPs can often be traced back to isolated events. For example, people have suggested that the PDP on new registry services can be explained by a need to respond to the Verisign ‘Sitefinder’ situation, and more recently, the new PDP on amendments to existing contractual agreements is a direct response from the Council to the dot.com settlement with Verisign. This raises implications for the scope of the PDPs and the extent to which a PDP is seen as ‘the only tool in the Council box [...] and it is a blunt tool at that’. For example, as one interviewee from one of the smaller Registries suggested:

The gTLD Registry Services Contract PDP has been launched on the basis of the Verisign settlement, a very bad context. It also suffers from the inappropriate attempt to treat all TLDs in the same fashion rather than to look for ways to delegate the policy-making whenever feasible.

9.15 Interviewees have suggested to us that work carried out by the GNSO can often be traced back to issues relating to Verisign. The policy development process on how to review and control for new services introduced by existing gTLD Registries for example can be traced back to a decision by Verisign in September 2003 to redirect

Internet users who had made unresolved requests for a particular second-level domain in the dot.com and dot.net space to a dedicated (and chargeable) Verisign directory and search service. This led to criticism of Verisign by ICANN on the grounds that this action was taken unilaterally and was considered a serious threat to the stability of root. Verisign withdrew the service pending future investigation.

9.16 A further example of policy development deriving from Verisign action is the most recent PDP in early 2006 focusing on amendments to contractual conditions of existing contracts with gTLD registries. This comes in the wake of the much publicised and highly controversial decision by ICANN to settle new terms for the dot.com registry contract with Verisign, despite a request from the Council to postpone any settlement until the details of the contract could be reviewed by the GNSO. This is a good example of how action of the Council can run counter to strongly held views by one or more Constituencies. It is gLTD Registries in this case who have set out the following statement on scope of this work:

Unless those who object to (the dot.com settlement) can make a reasonable case that the disrupted terms and conditions threaten ICANN's ability to preserve interoperability, stability, and security, they are not properly the subject of ICANN consensus policy making.

Registries go on to say however that 'while undersigned registry operators believe that the answer is a rather emphatic 'no', we have no objection to a serious debate on the question'.

9.17 Another issue that was raised in the independent review is the extent to which policies made by the Council are reviewed for effectiveness once they are in operation. Many of interviews with Council members reaffirmed this points, suggesting that almost all the policy development recommendations that had gone to the Council in recent years had not been subject to follow up work or review. In our survey we asked respondents to identify strengths and weaknesses of recent examples of policy development work, such as the Expired Domain Deletion PDP and work on WHOIS accuracy and bulk access. A common weakness raised was the lack of follow up work carried out. One respondent from the Registrar Constituency summed this up by suggesting that the main weakness is the 'lack of measurement done after the policy is implemented to measures the effectiveness of the policy [...] The expired

domain deletion PDP was developed to deal with a specific issue (i.e. registrars failing to delete names properly). There has been no analysis on whether registrars are complying with this policy’.

## 10. Voting and policy consensus

10.1 There is a strong democratic principle at the heart of the policy development and operational culture of the GNSO. As illustrated above in the review of Constituency structures and procedures, voting is integral to selection of Constituency representatives to the Council and executive officers. Voting procedures are also stipulated for all policy consensus work across Constituency members. Some Constituencies have relatively straightforward one-organization-one-vote systems while others use more weighted systems taking into account factors such as size and market share. Some Constituencies insist on term limits for their executive officer positions and for their Council representatives, while others tend to take a freer approach to terms of service for their elected representatives. In the GNSO Council voting is equally, if not more, central to ‘daily’ business. Councillors are called to vote on all manner of procedural and substantive issues. They are called on to vote for the Chair of the Council each year, and to vote in two Board Directors (Seats 13 and 14) as when necessity arrives.

10.2 Between January 2003 and October 2004, Councillors participated in 63 separate votes across 23 Council meetings, an average of just under three votes per meeting. We analysed this voting in more detail to get a sense of the types of issues that were subject to votes. We grouped each vote in terms of whether it was a procedural vote or something more substantive on policy or decision relating to questions to the Board. Figure 45 below indicates three types of procedural vote (marked in red):

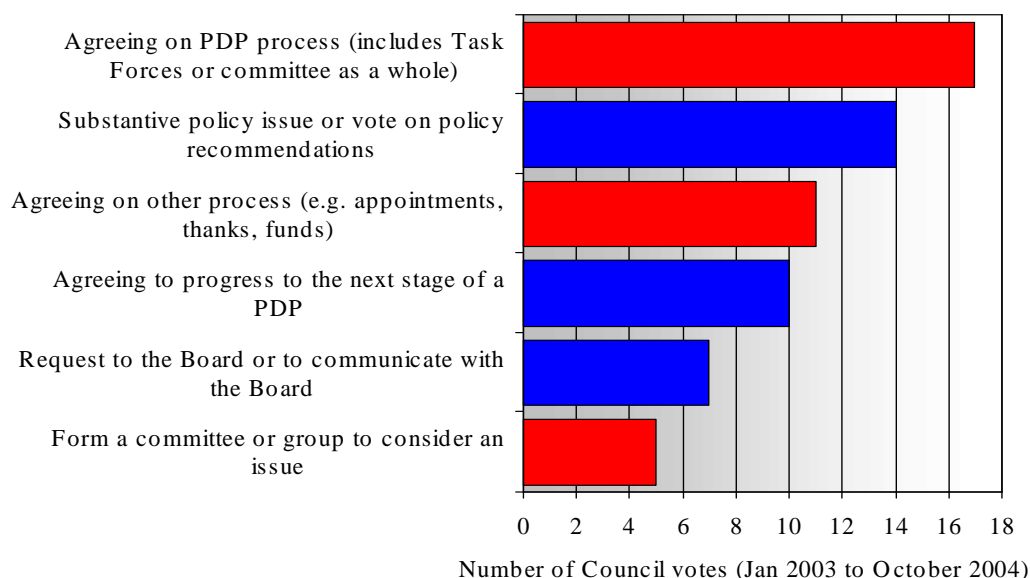
1. Decision to form or dissolve a committee or a working group;
2. Decision on a matter of process relating to general Council work (*for example, appointments, thanks, fund transfer*)
3. Decision on a matter of process relating to a PDP (*including both Task Force issues and ‘committee of the whole’*)

We also grouped three general types of more substantive votes (marked in blue):

4. Agree to progress to the next stage of a PDP;

5. Request to the Board or request to communicate with the Board;
6. Substantive policy issue or vote on policy recommendations.

**Figure 45: Analysis of voting in the GNSO Council between January 2003 and October 2004**

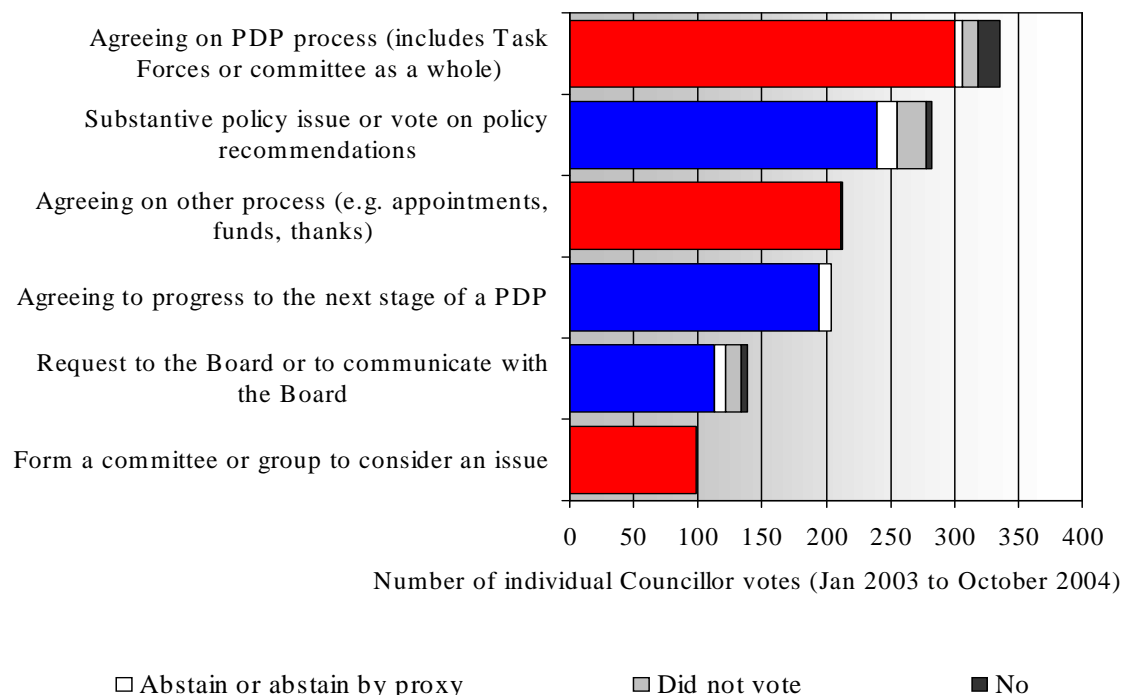


10.3 We conclude from these indicative groupings that just over half of all votes taken during this period were of the more procedural kind. There were around 14 votes that were what we would class as votes on substantive policy or elections to the Council Chair or ICANN Board (one quarter of all votes taken). It is perhaps also surprising that there were only ten votes taken to progress to the next stage of a PDP within a period of 20 months. Given that there were at least four full PDPs in progress during this period, and the PDPs as suggested above are generally set to last around 6 months, we might have expected a few more votes in this category given that there are at least four separate points in a PDP where the Council will vote to continue to the next stage. We counted votes to defer vote to the next meeting as a procedural vote relating to the PDP (point 3 above).

10.4 In order to get a picture of the level of disagreement or abstention across different types of votes, we calculated the incidence of 'No votes', 'Abstentions', and 'Did not vote' for all votes cast (1,254 in total) between January 2003 and October 2004. This revealed a remarkably low rate of disagreement across Constituency

members of the Council, even on votes that we grouped as substantive policy votes or elections to the Council or Board. Figure 46 below reproduces the same groupings or types of vote, but now shows at the tip of each bar the number of ‘No votes’, ‘Abstentions’, and ‘Did not vote’. Surprisingly the highest number of No votes came in the top category [Group 3 above] on procedural issues around PDP. These tended to be disagreement across the Constituencies on whether to delay Council votes on initiating a PDP. There were very few ‘No votes’ on substantive policy issues (Group 6 above), although there are some abstentions, which may have been the result of disagreement. We were not able to gain access to voting records from 2005 and 2006 despite a number of requests. One ex-Board member suggested that ‘one of the shortcomings of the Council is that they act too much like a legislative body’. The number of votes passed, often on the seemingly most trivial of items, would certainly support this.

**Figure 46: Analysis of ‘No voting’ and ‘Abstentions’ across all 1254 individual votes cast by Councillors between January 2003 and October 2004**



10.5 The low level of disagreement shown in this sample of Council voting (January 2003 to October 2004) is surprising when one takes into the broad diversity of views on key policy issues across Constituencies that we have encountered during this research. If there has been one consistent pattern to the views that our interviewees

have put forward, it is essentially that there is no real consensus on some fundamental policy issues. Within the GNSO Council there are very obvious divisions across different Constituencies on issues such as the purpose of WHOIS database, on issues surrounding the introduction of new gTLDs, and other important legacy issues such as the role of policy development in relation to existing contracts with registration industry stakeholders. One interviewee characterised the culture of the GNSO by suggesting that ‘the only thing that the GNSO can agree on is the time’. After pausing for reflection on this statement, he added ‘but then there is the time zone problem’.

10.6 Any basic review of Constituency statements, minutes of meetings, and mailing lists reveal very fundamental and often intractable divisions on the substance of policy recommendations. On the recent discussions around the purpose of the WHOIS database, the Combined Task Force eventually put two alternative formulations forward to the Council on the purpose of WHOIS, simply as a result of the fact that the Task Force had been unable to break down intractable divisions between the Registries and Registrars on the one hand, and the combined interests of the BC, IP and ISP Constituencies on the other. The formulation supported by the registration industry and the Non-commercial Constituency envisaged a narrow conception of the purpose of WHOIS, driven largely by a cohabitation of interest between registration stakeholders interested in limiting the business costs that wider access rights would impose and privacy stakeholders interested in safeguarding the personal data of registrants from governments and private sector interests. The formulation supported by the business and IP interests envisaged a much wider purpose for WHOIS, underpinning their own interests in having access to data about registrants who may potentially infringe the rights of established intellectual property.

10.7 The same potential for intractable positions in the Council can be seen in the current discussions around introduction of new gTLDs. In June 2005 the BC, IP and ISP Constituencies published a joint ‘White Paper’ setting out a position in support of introducing sponsored gTLDs on a first-come-first-serve basis with adequate ‘sunrise’ provisions. Usually White Papers set out the policy of a government around which debate can take place in the legislature. We were unsure to what extent this document could be called a ‘White Paper’ in this strict sense. An alternative view on introducing new domains might be one represented by one or two of the large



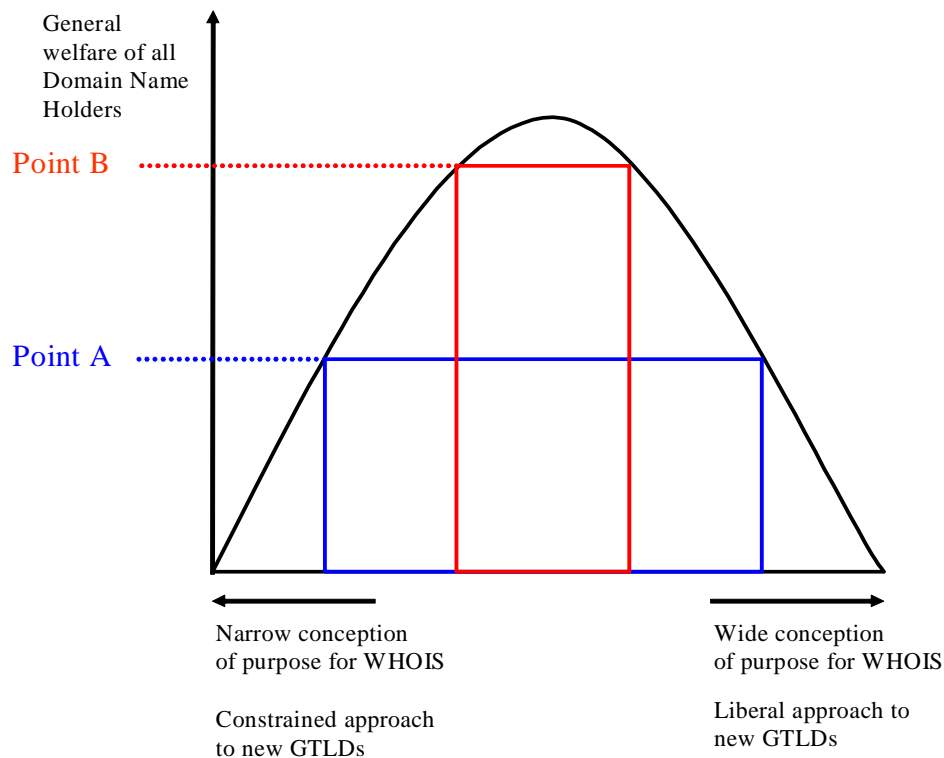
registrars. This would see a much freer and liberal approach to introduction of new gTLDs both sponsored and un-sponsored, with varying approaches on how to allocate names. As the BC and IP position sketched above seems to favour a more constrained approach and limits on the amount of new domain space that could potentially give rise to abusive behaviour of IP interests, it is just as reasonable to assume that the Registrar position is a reflection of an interest in anything which increases the possible number of names on the market. Another example of potential intractable and ongoing counter positions might include the new PDP on amendments to existing conditions set out in registry contracts with ICANN.

10.8 There are various clear advantages to having all these stakeholders in the same forum. All views are made known, and even if they are at times largely predictable positions held until the eleventh hour, there are benefits to having views clearly articulated. One or two people at most suggested to us that registration interests and user interests should be completely separated from each other. The problem lies in how to interpret and control for these predictable differences, and somehow fashion consensus (or something resembling consensus) from there. As one Board member suggested, ‘it leaves me with uncertainty about how to achieve bottom-up consensus policies when the parties who help to formulate these policies have fundamental conflicts’. This chimes with many other views that we heard from interviews, basically pointing out that most Constituencies have too much at stake both in terms of day-to-day business and in terms of personal livelihood and status to concede on issues where they would be better off either perpetuating a position of status quo, or simply dogmatically sticking to an intractable stance.

10.9 This syndrome, if that is what it is, presents problems for the Board in terms of its ability to interpret Council recommendations and make a judgement on whether to adopt them. On policy development such as the new registry services PDP, which was largely setting up procedural provisions for reviewing any changes implemented by gTLD Registries, issues may be relatively uncontroversial and therefore relatively easy for the Board to agree. Any policy issues, which are anything more than uncontroversial or completely watered down will inevitably bear the predictable signs of partisanship. As another Board member told us:

The Board will receive diverse interests that it will now have to resolve or reconcile...it is unlikely that the Board will get from its various policy initiatives a coherent view that does not contain input doesn't contain some of the inescapable conflicts that these groups exhibit.

**Figure 47: Graph showing different levels of majority and the impact on consensus between Constituencies**



10.10 Figure 47 above represents this general problem in very basic graphical terms. We can represent the relationship between domain name holders in general (encompassing all registrants globally who hold a generic domain names) and the views of stakeholders who have an interest in gTLD policy by a normal distribution curve. General welfare of domain name holders is represented on the *y-axis*. Varying extremes of views on particular issues relevant to gTLDs are represented on the *x-axis*. For example, narrow conceptions of the purpose of WHOIS would tend towards the left hand side of the *x-axis* whereas wider conceptions would tend towards the right. The same kind of thing can be applied to other issues, such as introduction of new gTLDs. The challenge is therefore to engineer consensus so that both extremes are forced inwards towards the centre. The blue box illustrates an example of how different blocs may settle on a final position which incorporates too much of the two extremes, and in substantive policy terms, leaves too much unresolved. The recent

WHOIS decision on formulation 1 and 2 is an example of this, where effectively you have an agreement to disagree in order that the process can continue in some form or another. Consensus is too widely based, too loose, or at worst, non-existent.

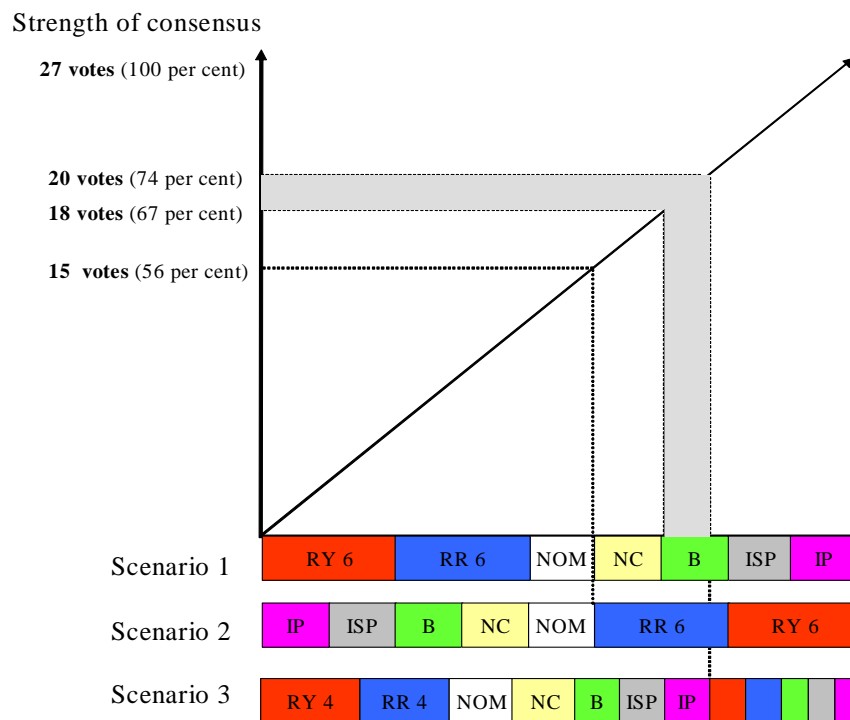
10.11 By forcing the area of consensus inwards towards the centre, the terrain for actual substantive agreement narrows (illustrated by the red box), and in doing so the overall welfare to domain name holders increases (moves from Point A to Point B). In the area designated by the red box, consensus is by definition deeper and much more focused around agreement on practicable measures and less on broad conceptual debates. There is also a much greater likelihood that stakeholders inside the area will be obliged to stick to commitments in later rounds of policy development. Such is the level of cynicism across ICANN about the relationship between what people say and where interests lie, that many of our interviewees expressed anything from surprise to disdain at the idea that consensus is possible given the current set up. One or two people suggested that we had a ‘strange idea of consensus’ in the sense that there are simply too many business, reputation, and personal livelihood interests at stake in this narrow community for consensus to be a relevant and realistic option. As previous quotes from Board members and other stakeholders have suggested, the ‘system might just be too broke to fix’, ‘people don’t want consensus’, and ‘getting [organizations] to agree to change is hard because these are the ones directly profiting from continuation of the status quo’.

10.12 For all the focus on voting and the importance of ‘super-majority’ outcomes, there are some very systemic characteristics in the system, which tend to perpetuate intractable positions. The current voting system is designed so that the BC, IP, ISP and NCU Constituency members may cast one vote each, in other words each of these Constituencies has 3 votes and in total cast 12 votes. Registry and Registrar Constituency representatives however are entitled to cast 2 votes each, in effect giving them weighted double votes and the same number of votes in total as the other 4 Constituencies. This recognises that these registration Constituencies are ‘under contract with ICANN obligating them to implement ICANN-adopted policies’, and therefore they should hold a relatively greater influence over policies, which have practical implementations for their business. There is scope for certain Council votes to be held under conditions where all Constituency representatives (including

Registries and Registrars) have one vote each. Nominating Committee representatives to the Council may cast one vote each. This makes a total of 27 votes.

10.13 Figure 48 below shows some possible scenarios for how votes might line up, and how the current system perpetuates intractable positions. In this graph the *y-axis* represents the strength of consensus and the *x-axis* shows how different Constituency votes may stack from left to right. Scenario 1 represents broadly the outcome of the recent vote on the purpose of WHOIS. Here Registrars, Registries, Nominating Committee, and NCU Constituencies amassed 18 votes, achieving a 67 per cent super-majority. This was achieved without breaking the opposing bloc represented by BC, IP, and ISP Constituencies. By raising the required threshold to over 72 per cent however, a central requirement for a system known generally as Qualified Majority Voting (QMV), it would be absolutely necessary for the winning majority in this case to break into the opposing bloc and secure at least 2 votes from either the BC, the IP or the ISP Constituencies (of course it does not have to be the BC as this Figure suggests – this is drawn in this way for illustrative purposes only). By stipulating this requirement that potential must be broken from the outset, experience has shown that stakeholders are obliged to think in terms of how to develop policy that will in some way attract the more moderate ends of the opposing factions.

**Figure 48: Some possible scenarios for voting outcomes in the Council**



NOTE: We recognize that Registries and Registrars may not always vote similarly. Just as BC, IP and ISP will not always vote together. We have portrayed them together in this diagram for illustration purposes.

10.14 Looking at Scenario 2 we see that the current system makes it impossible for the BC, IP, and ISP to gain a super-majority of 67 per cent without in some way gaining the support of the Registrar and Registry Constituencies. On issues such as WHOIS, this presents an obvious incentive for the BC, IP and ISP to block progress in other ways related to the policy development process. Even if these Constituencies would deny that this was the case, the system is set up in such a way that they would be misguided not to at least think about it. Even with the Nominating Committee and the NCU onside, these Constituencies can only achieve 56 per cent of the vote.

10.15 Having a systemic incentive from the outset for Constituencies to develop policy positions, which are in some way acceptable to opposing blocs, can help to mitigate the kinds of intractable differences that were discussed above. It might be for example, that certain smaller Registries within the Constituency may find more in common with diffuse business interests than with larger Registries within their Constituency. Alternatively middle-sized registrars may find a similar thing, and so in

developing policy positions Constituencies are more inclined to think about how their positions can be tailored to attract others. Scenario 3 above represents one possible example of a more disaggregated voting outcome, where Constituencies might be split and intractable blocs loosened. It is perhaps misleading to suggest that Registries and Registrars will always vote together on all issues. With issues on the table such as amendments to existing registry contracts, it is highly possible that Registries and Registrars will line up on opposing sides.

10.16 Many of our interviewees have raised the issue of voting in the Council. Some have suggested that there is too much voting, and one is inclined to agree on the strength of the data presented above and the somewhat spurious lack of disagreement. But there is clearly a problem that the moment issues become important enough to selective interests, the emphasis on voting is as much part of the problem as it is part of the solution. As one Board member suggested, ‘it is all about voting. The whole emphasis on voting has really got out of hand [...] In effect it is a kind of legislature where voting is terribly important’. Other people have suggested the weighted voting arrangements are a kind of necessary stabilizer to ensure that supplier interests can never be undermined without supplier consent in some form. This links to a further interesting diagnosis that the weighted voting arrangement is a symptom of a system that is broken. ‘Weighted voting should not be necessary...you shouldn’t have that problem in the first place’.

10.17 Research has shown that voting systems using QMV frequently normalise very high levels of consensus across members, and can have the effect that voting becomes a mechanism for rubber stamping policy work that has already been designed from the outset in such a way that there will have to be a high level of buy-in at the end. The work therefore is done at the executive policy development stage rather than, as recent examples have shown, in a rushed and unsatisfactory way at the eleventh hour by Council members ‘just wanting to find some kind of resolution to an issue that has been dragging on...however temporary that resolution may be’.

## 11. Future challenges for the GNSO

11.1 We asked our survey respondents to think about the most important future challenges for the GNSO in the next 2 or 3 years. As with all our questions we asked them score a range of possible challenges on a scale of 1 to 7, and then assesses which were the most important and least important. Figure 49 below shows the number of times each challenge ranked highest or joint highest, and the number of times that each one rank lowest or joint lowest. The results confirm many of the major issues that have been raised in this document. Issues such as improving the overall quality of policy making, better transparency and openness, and broadening the range of participation in policy development were all near the top.

**Figure 49: How respondents to our survey viewed some future challenges for the GNSO**

	<b>Ranked highest</b>	<b>Ranked lowest</b>	<b>Net rank</b>
Improving the quality of gTLD policy making	35	17	18
Improving transparency and openness in gTLD policy development	40	22	18
Representing more effectively the views of Internet users worldwide	36	24	12
Broadening the range of organisations participating in gTLD policy development	28	23	5
Some other challenge	7	2	5
Encouraging more intensive participation by major organisations in gTLD policy development	22	25	-3
Raising the profile of the GNSO as a policy development body	24	34	-10

NOTE: 1. Another challenge: avoiding capture of the policy development process by a few activists who do not adequately represent the communities they claim to represent. 2. Being proactive and not reactive. 3. Being viewed by ICANN staff for guidance. 4. GETTING ICANN TO ACTUALLY imbibe the bottom up consensus approach and acknowledge feedback of the GNSO 5. The GNSO should not attempt to develop all policy, but on the contrary look for ways to delegate policy development 6. Letting Registrars know they exist! 7. Redefining the constituency structure and professionalizing the policy development process. Either GNSO has to become significantly more powerful - more like a legislature/regulator (which would require major reform of its structure) - or significantly less powerful and the decision making authority pushed elsewhere, to national govts, and/or the staff and Board. Many of the more general policy development and outreach processes might be better handled via the new UN Internet Governance Forum. GNSO needs to think about how it will intersect with that.

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## Appendix 1: Our Methods

A1. At the end of February 2006 we set up a basic research website ([www.icann-gnsoreview.org](http://www.icann-gnsoreview.org)) through which we aimed to collect as wide a range of views as possible about the GNSO and gTLD policy development work in ICANN. The website homepage translated into 8 world languages (English, Chinese, Arabic, French, German, Russian, Spanish, and Portuguese), and we posted some basic material explaining the objectives of the research and a brief glossary to translate ICANN and DNS jargon for the uninitiated. The domain name was designed to include references to both ICANN and GNSO in order to increase the chances of recognition with business and non-commercial stakeholders who would be more familiar with ICANN and less so, if at all, with the GNSO. The website offered four main channels for people to register their views on the GNSO as follows:

*Survey questionnaire for Constituency members* We designed a relatively short online questionnaire to be completed by liaisons or representatives from member organizations of the six GNSO Constituencies. In order to increase potential for comparison across Constituencies, these surveys were generic in structure and content. They were designed so that respondents had the option of working through them quickly (in 15 minutes or so) simply inputting scores on basic Likert scales (from 1 to 7) for different aspects of Constituency and GNSO performance. There were also free text boxes for respondents to write in comments or views at the end of each question. This aimed to generate a combination of quantitative data showing relative views across clusters of questions, and more qualitative comments on the GNSO, strengths and weaknesses, and so on.

*Survey questionnaire for individuals* This survey was designed to capture the views of individuals active within ICANN (or on the periphery) on the GNSO and its policy development work. There is a narrow but highly intensive community of debate around ICANN, particularly on individual ‘blog’ sites and discussion forums. We wanted to capture the views of these ICANN participants or knowledgeable observers. We also invited ICANN staff members to complete a survey from their own individual perspective.

*Survey questionnaire for non-member organizations* An important aspect of this research was to try to find out why organizations from business and the civil society do not participate in the GNSO Constituency structure. This survey was designed to collect views of non-member organizations on the GNSO (and failing that, ICANN).

*Email posting facility* In order to canvas views globally we set up an email facility capable of receiving comments in any world language. This provided a free and open channel for views on the GNSO and ICANN. The surveys above were only available in English, as we were simply limited by resources and time constraints.

A2. We were keen ensure the integrity of survey responses, in the sense that an organization or individual could only submit one survey and that data inputted would be secure and only accessible by them. In order to implement this, we opted to assign usernames and passwords to all survey respondents. Our research team sent this information to all Constituency members with an invitation to complete the survey. For individuals and non-members, we asked respondents to send us a short email requesting username and password. The risk of such an approach is that potential respondents will be put off from completing a survey by the effort involved in requesting log in details. Our view is that the integrity and security of the survey responses was a high priority, and that by asking respondents to do this little bit of administration, we would increase the chances that responses we did receive were serious and authentic.

A3. It is almost always insufficient to assume that simply by setting up a research website and putting some surveys on it, people will be inherently interested and will respond. During March 2006 we employed a group of 10 LSE post-graduate students to carry out work to encourage Constituency members to visit the website, solicit comments in languages other than English, and generally get as many and as diverse a range of organizations as possible to contribute a view. Our students were allocated a Constituency each and asked to establish contact with all registered member organizations, identify the key person, and encourage them to complete a survey.

Constituencies list members on their websites to varying degrees of detail and accuracy, and so this work combined working from contact information provided on Constituency websites, lists provided by Constituency secretariats, and straightforward cold calling or emailing.

A4. Our students were also allocated world regions according to their particular language skills, and asked to identify named contacts in major organizations that might have some interest in the global Domain Name System, ICANN, and by chance the GNSO. We intentionally left the scope for comments relatively wide to encourage as many views as possible. The languages covered included all those translated on the website homepage as well as others such as Hindi and Turkish. Invitations were sent to named contacts to visit the website and post a comment.

A5. A separate strand of the research has been to conduct in-depth and semi-structured interviews with around 80 stakeholders either inside the ICANN process or at varying degrees of distance from it. These interviews have been conducted either by telephone conference, or face-to-face in Brussels and in Wellington, NZ during the March 2006 meeting. We hope to conduct further feedback discussion at the meeting in Marrakech in June 2006. Discussions have generally lasted between 45 minutes and 90 minutes, with practically all of the interviews recorded. We have tried to be very clear about our commitment to confidentiality prior to each interview, and in all cases have asked permission from the interviewee to use a tape recorder. We have explained that comments will not be attributed to individuals or organizations in these final reports. We have spoken in detail to GNSO Council members, former Council members, Constituency officials, Constituency member representatives, ICANN staff, current Board members, former Board members, staff from other ICANN supporting organizations, participating individuals, government representatives, academics, non-member organizations, and a range of knowledgeable 'old timers' (remembering that ICANN is only 7 years old) and observers.

A6. There is a vast range of opportunity for unobtrusive analysis of the GNSO from data freely and publicly available on the ICANN and the GNSO website. As one interviewee put it, 'if you have the time and the patience you can find practically everything on the ICANN website...in a way, ICANN is freakishly transparent'.

Resources such as mailing lists, minutes of meetings, constituency statements, transcripts of meeting discussions, and data on domain name registrations, provide rich potential for constructing objective data-based checks and cross-references against more subjective comments. We have attempted to be as thorough as possible in using this kind of objective data source to triangulate positions with our findings from interviews and surveys. It will, of course, be the case that unobtrusive analysis of specific types of data will only reveal a certain amount of the full picture. For example, counting the number of postings to mailing lists can often give quite a reliable and detailed picture of the dynamics of participation across Constituencies. Nevertheless, it is important to realise the limitations of this kind of analysis, for example many important discussions might take place through other channels. In general, however, we have found that applying basic quantitative techniques to resources such as ‘tallying’ mailing lists and meeting minutes can give surprisingly intuitive outputs that can be used to support or debunk arguments that we have heard along the way.



# Glossary

## A

### **Advisory Committee**

An Advisory Committee is a formal advisory body made up of representatives from the Internet community to advise ICANN on a particular issue or policy area. Several are mandated by the ICANN Bylaws and others may be created as needed. Advisory committees have no legal authority to act for ICANN, but report their findings and make recommendations to the ICANN Board.

### **ALAC At Large Advisory Committee**

ICANN's At-Large Advisory Committee (ALAC) is responsible for considering and providing advice on the activities of the ICANN, as they relate to the interests of individual Internet users (the "At-Large" community). ICANN, as a private sector, non-profit corporation with technical management responsibilities for the Internet's domain name and address system, will rely on the ALAC and its supporting infrastructure to involve and represent in ICANN a broad set of individual user interests.

### **ASO Address Supporting Organisation**

The Address Supporting Organisation (ASO) advises the ICANN Board of Directors on policy issues relating to the allocation and management of Internet Protocol (IP) addresses. The ASO selects two Directors for the ICANN Board.

## C

### **ccNSO Country Code Names Supporting Organisation**

The purpose of the ccNSO is to engage and provide leadership in activities relevant to country-code top-level domains (ccTLDs). This is achieved by: 1) Developing policy recommendations to the ICANN Board; 2) Nurturing consensus across the ccNSO's community, including the name-related activities of ccTLDs; and 3) Coordinating with other ICANN SO's, Committees, or constituencies under ICANN. The ccNSO selects one person to serve on the Board.

### **ccTLD Country Code Top Level Domain**

Two letter domains, such as .uk (United Kingdom), .de (Germany) and .jp (Japan) (for example), are called country code top level domains (ccTLDs) and correspond to a country, territory, or other geographic location. The rules and policies for registering domain names in the ccTLDs vary significantly and ccTLD registries limit use of the ccTLD to citizens of the corresponding country. Some ICANN-accredited registrars provide registration services in the ccTLDs in addition to registering names in .biz, .com, .info, .name, .net and .org, however, ICANN does not specifically accredit registrars to provide ccTLD registration services.

## D

### **DNS Domain Name System**

The Domain Name System (DNS) helps users to find their way around the Internet. Every computer on the Internet has a unique address - just like a telephone number - which is a rather complicated string of numbers. It is called its "IP address" (IP stands for "Internet Protocol"). IP Addresses are hard to remember. The DNS makes using the Internet easier by allowing a familiar string of letters (the "domain name") to be used instead of the arcane IP address. So instead of typing 207.151.159.3, you can

type [www.internic.net](http://www.internic.net). It is a "mnemonic" device that makes addresses easier to remember.

### **DNSO Domain Name Supporting Organisation**

The DNSO was the original policy SO set up within ICANN in 1999. In December 2002 the responsibilities of the DNSO were passed on to the GNSO.

## **G**

### **GAC Government Advisory Committee**

The GAC is an advisory committee comprising appointed representatives of national governments, multi-national governmental organisations and treaty organisations, and distinct economies. Its function is to advise the ICANN Board on matters of concern to governments. The GAC will operate as a forum for the discussion of government interests and concerns, including consumer interests. As an advisory committee, the GAC has no legal authority to act for ICANN, but will report its findings and recommendations to the ICANN Board.

### **gTLD Generic Top Level Domain**

Most TLDs with three or more characters are referred to as 'generic' TLDs, or 'gTLDs'. They can be subdivided into two types, "sponsored" TLDs (sTLDs) and "unsponsored TLDs (uTLDs), as described in more detail below. In the 1980s, seven gTLDs (.com, .edu, .gov, .int, .mil, .net, and .org) were created. Domain names may be registered in three of these (.com, .net, and .org) without restriction; the other four have limited purposes.

Over the next twelve years, various discussions occurred concerning additional gTLDs, leading to the selection in November 2000 of seven new TLDs for introduction. These were introduced in 2001 and 2002. Four of the new TLDs (.biz, .info, .name, and .pro) are unsponsored. The other three new TLDs (.aero, .coop, and .museum) are sponsored.

Generally speaking, an unsponsored TLD operates under policies established by the global Internet community directly through the ICANN process, while a sponsored TLD is a specialized TLD that has a sponsor representing the narrower community that is most affected by the TLD. The sponsor thus carries out delegated policy-formulation responsibilities over many matters concerning the TLD.

### **GNSO Generic Names Supporting Organisation**

The GNSO is the successor to the responsibilities of the Domain Name Supporting Organization (DNSO) that relate to the generic top-level domains. The GNSO is the body of six constituencies, as follows: the Business and Commercial User constituency, the gTLD Registry constituency, the ISP constituency, the Non-commercial User constituency, the Registrar constituency, and the IP constituency.

## **I**

### **IANA Internet Assigned Numbers Authority**

The IANA is the authority originally responsible for the oversight of IP address allocation, the coordination of the assignment of protocol parameters provided for in Internet technical standards, and the management of the DNS, including the delegation of top-level domains and oversight of the root name server system. Under ICANN, the IANA continues to distribute addresses to the Regional Internet

Registries, coordinate with the IETF and others to assign protocol parameters, and oversee the operation of the DNS.

### **ICANN The Internet Corporation for Assigned Names and Numbers**

The Internet Corporation for Assigned Names and Numbers (ICANN) is an internationally organized, non-profit corporation that has responsibility for Internet Protocol (IP) address space allocation, protocol identifier assignment, generic (gTLD) and country code (ccTLD) Top-Level Domain name system management, and root server system management functions. Originally, the Internet Assigned Numbers Authority (IANA) and other entities performed these services under US Government contract. ICANN now performs the IANA function. As a private-public partnership, ICANN is dedicated to preserving the operational stability of the Internet; to promoting competition; to achieving broad representation of global Internet communities; and to developing policy appropriate to its mission through bottom-up, consensus-based processes.

### **IDN Internationalized Domain Names**

Internationalized Domain Names, or IDNs, are web addresses in your own language. Many efforts are underway in the Internet community to make domain names available in character sets other than ASCII. These 'internationalized domain name' (IDN) efforts were the subject of a 25 September 2000 resolution by the ICANN Board of Directors, in which it recognized 'that it is important that the Internet evolve to be more accessible to those who do not use the ASCII character set', but stressed that 'the internationalization of the Internet's domain name system must be accomplished through standards that are open, non-proprietary, and fully compatible with the Internet's existing end-to-end model and that preserve globally unique naming in a universally resolvable public name space'.

### **IGF Internet Governance Forum**

The IGF was set up by the United Nations in 2005 to be a forum for multi-stakeholder policy dialogue.

### **IETF Internet Engineering Task Force**

The IETF is a large open international community of network designers, operators, vendors, and researchers concerned with the evolution of the Internet architecture and the smooth operation of the Internet. It is open to any interested individual.

### **IP Internet Protocol**

The communications protocol underlying the Internet (IP), allows large, geographically diverse networks of computers to communicate with each other quickly and economically over a variety of physical links. An Internet Protocol Address is the numerical address by which a location in the Internet is identified. Computers on the Internet use IP addresses to route traffic and establish connections among themselves; people generally use the human-friendly names made possible by the Domain Name System (see above).

### **ISOC The Internet Society**

The Internet Society is the international organisation for global cooperation and coordination for the Internet and its internetworking technologies and applications. ISOC membership is open to any interested person.

### **ISP Internet Service Provider**

An ISP is a company, which provides access to the Internet to organisations and/or individuals. Access services provided by ISPs may include web hosting, email, VoIP (voice over IP), and support for many other applications.

## **R**

## **Registrar**

Domain names ending with .aero, .biz, .com, .coop, .info, .museum, .name, .net, .org, and .pro can be registered through many different companies (known as 'registrars') that compete with one another. The registrar you choose will ask you to provide various contact and technical information that makes up the registration. The Registrar will then keep records of the contact information and submit the technical information to a central directory known as the 'registry'. This registry provides other computers on the Internet the information necessary to send you email or to find your web site. You will also be required to enter a registration contract with the registrar, which sets forth the terms under which your registration is accepted and will be maintained.

## **Registry**

The Registry is the authoritative, master database of all domain names registered in each Top Level Domain. The registry operator keeps the master database and also generates the 'zone file' which allows computers to route Internet traffic to and from top-level domains anywhere in the world. Internet users don't interact directly with the registry operator; users can register names in TLDs including .biz, .com, .info, .net, .name, .org by using an ICANN-Accredited Registrar.

## **RIR Regional Internet Registry**

There are currently four RIRs: APNIC, ARIN, LACNIC and RIPE NCC. These non-profit organisations are responsible for distributing IP addresses on a regional level to Internet service providers and local registries.

## **Root Servers**

The root servers contain the IP addresses of all the TLD registries - both the global registries such as .com, .org, etc. and the 244 country-specific registries such as .fr (France), .cn (China), etc. This is critical information. If the information is not 100 per cent correct or if it is ambiguous, it might not be possible to locate a key registry on the Internet. In DNS parlance, the information must be unique and authentic.

## **S**

### **Supporting Organisations (SO)**

The SOs are the three specialized advisory bodies that will advise the ICANN Board of Directors on issues relating to domain names (GNSO and ccNSO) and IP addresses (ASO).

## **T**

### **TLD Top Level Domain**

TLDs are the names at the top of the DNS naming hierarchy. They appear in domain names as the string of letters following the last (rightmost) '.', such as 'net' in 'www.example.net'. The administrator for a TLD controls what second-level names are recognized in that TLD. The administrators of the 'root domain' or 'root zone' control what TLDs are recognized by the DNS. Commonly used TLDs include .com, .net, .edu, .jp, .de, etc.

## **U**

### **UDRP Uniform Dispute Resolution Policy**

All ICANN-accredited registrars follow a uniform dispute resolution policy. Under that policy, disputes over entitlement to a domain-name registration are ordinarily resolved by court litigation between the parties claiming rights to the registration. Once the courts rule who is entitled to the registration, the registrar will implement

that ruling. In disputes arising from registrations allegedly made abusively (such as "cybersquatting" and cyberpiracy"), the uniform policy provides an expedited administrative procedure to allow the dispute to be resolved without the cost and delays often encountered in court litigation.

## **W**

### **WGIG Working Group on Internet Governance**

This is a UN Working Group that was set up following the first phase of WSIS in Geneva in 2003. It was asked to address issues such as developing a working definition of Internet Governance and identifying the public policy issues that are relevant to it.

### **WHOIS**

Information about who is responsible for domain names is publicly available to allow rapid resolution of technical problems and to permit enforcement of consumer protection, trademark, and other laws. The registrar will make this information available to the public on a 'Whois' site. It is however possible to register a domain in the name of a third party, as long as they agree to accept responsibility.

### **WIPO World Intellectual Property Organisation**

WIPO is an intergovernmental organisation based in Geneva, Switzerland responsible for the promotion of the protection of intellectual rights throughout the world. It is one of the 16 specialized agencies of the United Nations system of organisations.

### **WSIS World Summit on the Information Society**

The UN General Assembly in December 2001 endorsed the holding of the World Summit on the Information Society in two phases. The first phase of WSIS took place in Geneva in December 2003. It addressed the broad range of themes concerning the Information Society and adopted a Declaration of Principles and Plan of Action. The second phase took place in Tunis in November 2005. It requested the setting up of the IGF (see above).